CIVIL COURT OF THE CITY OF NEW YORK COUNTY OF BRONX

2246 Webster Avenue, HDFC,

048720

Plaintiff,

INDEX NO. FILE NO. 13817.0

-against-

SUMMONS Place of Venue is Plaintiff's place of business:

Elizabeth Alibizu Acevedo,

2246 Webster Avenue Bronx, NY 10457

Defendant(s)

To the above named defendants(s):

YOU ARE HEREBY SUMMONED to appear at the CIVIL COURT OF THE CITY OF NEW YORK, COUNTY OF BRONX at the office of the clerk of the said Court at 851 Grand Concourse, Bronx, NY 10451, in the COUNTY OF BRONX, State of New York, within the time provided by law as noted below and to file an answer to the below complaint with theclerk: upon your failure to answer, judgment will be taken against you for the sym of \$5,093 91 with interest thereon from July 1, 2006 together with costs of this action.

DATED: July 1, 2011

FEE PAID

JUL 1 4 2011

CIVIL COURT BRONX COUNTY

Defendant's Address: Elizabeth Alibizu Acevedo 811 E. 167th Street, Apr. 2A Bronx, NY 10459-2771

By: Gary Kavulich, Esq., Kavulich & Associates, P.C. Attorney for Plaintiff 181 Westchester Avenue Suite 500C Port Chester, NY 10573 (914) 355-2074

Note: The law provides that: (a) If the summons is served by its delivery to you personally within the City of New York, you must appear and answer within TWENTY days after such service; or (b) If the summons is served by any means other than personal delivery to you within the City of New York, you must appear and answer within THIRTY days after proof of

Case 1:16-cv-02134-ALC Document 86-57 Filed 08/18/17 Page 2 of 110

COMPLAINT

FIRST ACTION: Plaintiff seeks to recover damages from defendant(s) for breach of a lease agreement in the sum of \$3,993.91 representing rental arrears for the months of July, 2006 balance of \$399.79; August, 2006 through and including November, 2006 at the agreed monthly sum of \$898.53 for the premises known as 2246 Webster Avenue, Apt.34 Bronx, NY 10457 together with costs and disbursements of this action and for such other and further relief as the court may deem just.

<u>SECOND ACTION</u>: Plaintiff seeks to recover damages from the defendant in the sum of \$600.00 representing damages together with costs and disbursements of this action and for such other and further relief as the Court may deem just.

THIRD ACTION: Plaintiff seeks to recover damages from the defendant in the sum of \$500.00 representing reasonable attorneys fees together with costs and disbursements of this action and for such other further relief as the Court may deem just.

WHEREFORE, Plaintiff demands judgment (A) on the First Action, in the sum of \$3,993.91 plus interest from July 1, 2006 together with costs and disbursements of this action and for such other and further relief as the Court may deem just, (B) on the Second Action, in the sum of \$600.00 plus interest from July 1, 2006 together with costs and disbursements of this action and for such other and further relief as the Court may deem just, (C) on the Third Action, in the sum of \$500.00 together with costs and disbursements of this action and for such other and further relief as the Court may deem just.

The Plaintiff in this action is NOT required to be liceused by the New York City Department of Consumer Affairs.

Civil Court of the City of New York County of Bronx

Index No:	CV-0483	720-11/B <i>N</i>
### ##### FEE##### ##	(BENERALDIAN PERKEN	64 8 4 8 4 5 4 10 1 0 10 1 1 3 1 1 1 1 1

	46 Webster Avenue, HDFC -against- izabeth Alibizu Acevedo	ORAL ANSWER ACTION FOR MONEY ONLY
D as f	efendant, Elizabeth Alibizu Acevedo, at 811 E. 167th Street Apt.	2A, Bronx, NY 10459- , answers the Complaint
AN	SWER: Dated : 11/21/2011	
(C.)	eck all that apply)	
•	General Denial: I deny the allegations in the complain SERVICE	t.
2		
3	I did not receive a copy of the summons and complain	I
.,	I received the Summons and Complaint, but service w	as not correct as required by law.
d	DEFENSES	
4	I do not owe this debt.	
5	I did not incur this debt. I am the victim of identity the	ft or mistaken identity.
6	I have paid all or part of the alleged debt.	
7	XX I dispute the amount of the debt.	
8	Plaintiff is required to be licensed by the department of does not allege a license number in the Complaint.	
9	Statute of Limitations (the time has passed to sue on the	is debt: more than eix years?
10	The debt has been discharged in bankruptcy.	o see more man and years).
11	The collateral (property) was not sold at a commercially	reasonable price
12	XX Unjust enrichment (the amount demanded is excessive of	compared with the original and a
13	Violation of the duty of good faith and fair dealing.	ompared with the original debt.)
14	Unconscionability (the contract is unfair,)	
15	Laches (plaintiff has excessively delayed in bringing this	lawenit to my diama
16	Defendant is in the military.	amount to my disadvantage.)
17	Other:	
	OTHER	
18	Please take notice that my only source of income is	which is successed
COU	UNTERCLAIM	which is exempt from collection.
19	Counterclaim(s):\$ Reason:	
This Date: To:	case is scheduled to appear on the calendar as follows: January 3, 2012 Part: Part 11 - Self Represented Non-Jury Room	503 Time: 10:30 AM Both Sides November
LU.	Kavulich & Associates	
	181 Westchester Ave	ID - DMV
	Suite 500-C Port Chester, NY 10573.	CLERK'S OFFICE
	TOTA CARCAGA, IN I 103/3.	

NOV 2 1 2011

CIVIL COURT BRONX COUNTY

Page 3

CIVIL COURT OF THE CITY OF NEW YORK County of DROCXPart	File# 13817
It is hereby stipulated and agreed by and between the parties that the above	
action is settled as follows: Plainthff shall accome as 2000 & as full settlement of a	art,
cloums payable as follows: commencing	January Every
30, 2012 and on or before the 30-th of 7	MONIN
In the event of default, Plaintiff sha	4 din 8 3,993 91
July 1, 2000 upon 10 days weither notice	Poyments Te to curemad
make payments to: KAVUlich + Associate 18 Hulestchester Avenue Suite 500c.	PORTUTESTER,
NEW JORK 105+3 DECEMBER TO INClude &	12#13817 ' shall
Discontinuance. This stigulation con full terms + conditions of This Agreem	tains the
Signature Date Signature	Date
Signature Date Date O Signature	<u>/-3-/Z</u> Date
Rankur + 8 schafes, f. Hage of	
CIV-GP-32 (Revised December, 2005)	**************************************
RAVI.	CRUZ Page 4

Bronx County Civil Courl Civil Judgment

Plaintiff(s):

Defendant(s):

VŞ.

2246 Webster Avenue, HDFC

Index Number: CV-048720-11/BX

Judgment issued: Per Default in Stipulation

On Motion of:

Kavulich & Associates PC

181 Westchester Avenue, Suite 500C, Port

Elizabeth Alibizu Ace	evedo			NY 10573-	
Amount claimed	\$3,993,91	Index Number Fee	\$45.00	Transcript Fee	\$0.00
Less Payments made	\$200,00	Consumer Credit Fee	\$0.00	County Clerk Fee	\$0.00
Less Counterdelm Offset	\$0.00	Service Fee	\$25.00	Enforcement Fee	\$40.00
Interest 07/01/2006	\$2,105.62	Non-Military Fee	\$0.00	Other Disbursements	\$0.00
Attorney Fees	\$0.00	Notice of Trial Fee	\$0.00	Other Costs	\$0.00
Cost By Statute	\$20,00	Jury Demand Fee	\$0.00		
Total Damages	\$5,899.53 Total Cos	sts & Disbursements	\$130.00	Judgment Total	\$6,029.53

The following named parties, addressed and identified as creditors below:

Plaintiff creditor(s) and address

(1) 2246 Webster Avenue, HDFC

2246 Webster Avenue, Bronx, NY 10457-

Shall recover of the following parties, addresses and identified as debtors below:

Defendant debtor(s) and address

(1) Elizabeth Alibizu Acevedo

811 E. 167th Street, Apt. 2A, Bronx, NY 10459-

Judgment entered at the Bronx County Civil Court, 851 Grand Concourse, Bronx, NY 10451, in the STATE OF NEW YORK in the total amount of \$6,029.53 on 09/27/2012 at 12:15 PM.

Judgment sequence 1

Carol Alt, Chief Clerk Civil Court

Carol Alt

Case 1:16-cv-02134-ALC Document 86-57 Filed 08/18/17 Page 6 of 110

COURT OF THE CITY OF NEW YORK. COUNTY OF BRONX

INDEX NO. 48720/11 FILE NO. 13817

2246 WEBSTER AVENUE, HDFC.

JUDGMENT AFTER STIPULATION

PLAINTIFF(S)

-AGAINST-

ELIZABETH ALIBIZU ACEVEDO,

DEFENDANT(S)

AMOUNT CLAIMED LESS PAYMENT(S) OF \$200.00 INTEREST FROM 07/01/06

\$3,793,91

\$2,105.62 \$5,899.53

COSTS BY STATUTE SERVICE OF SUMMONS AND COMPLAINT FILING OF SUMMONS AND COMPLAINT

PROSPECTIVE MARSHALL'S FEE

\$20.00 \$25.00 \$45.00

\$40.00

TOTAL:

\$ 130.00 \$6,029.53

STATE OF NEW YORK, COUNTY OF WESTCHESTER:

THE UNDERSIGNED, ATTORNEY AT LAW OF THE STATE OF NEW YORK, ON OF THE ATTORNEY(S) OF RECORD FOR THE PLAINTIFF(S) IN THE ABOVE ENTITLED ACTION, STATES THAT THE DISBURSEMENTS ABOVE SPECIFIED HAVE BEEN OR WILL NECESSARILY BE MADE OR INCURRED THEREIN AND ARE REASONABLE IN AMOUNT. THE CAUSE OF ACTION IN THE WITHIN MATTER ACCRUED IN THE STATE OF NEW YORK WHERE THE STATUTE OF LIMITATIONS ON A CONTRACT, UPON WHICH THE ACTION IS BASED, IS SIX (6) YEAR S. THE STATUTE OF LIMITATIONS HAS NOT EXPIRED. THAT THE DEFENDANT ANSWERED, CASE WAS SETTLED PER STIPULATION IN LANUARY 3, 2012. THAT DEFENDANT(S) DEFAULTED ON SAID STIPULATION. THE UNDERSIGNED ATTIOMS THIS STATEMENT TO BE TRUE UNDER THE PENALTIES OF PERJURY.

DATED: WESTCHESTER, NY SEPTEMBER 25, 2012

> KAVULICHE ASSOCIATES, P.C. BY: GARY KAVULICH, ESQ.

JUDGMENT ENTERED ON

SERVICE OF THE SUMMONS AND COMPLAINT IN THIS ACTION ON THE DEFENDANT(S) HEREIN HAVING BEEN COMPLETED; CASE WAS SETTLED PER STIPULATION ON JANUARY 3, 2012. THAT A DEFULT BY THE DEFENDANT IN COMPLYING WITH SAID AGREEMENT AND DEFENDANT'S FAILURE TO CURE THAT DEFAULT DESPITE PLAINTIFF'S NOTICE IN ACCORDANCE WITH THAT STIPULATION, JUDGMENT IS REQUESTED. ANNEXED HERETO IS A COPY OF SAID STIPULATION AND DEFAULT

NOW ON MOTION OF KAVULICH & ASSOCIATES, P.C. ATTORNEY(S) FOR THE PLAINTIFF(S) IT IS, ADJUDGED THAT

AFTER A DEFAULT IN SAID STIPULATION,

2246 WEBSTER AVENUE, HDFC.

RESIDING AT: 2246 WEBSTER AVENUE, BRONX, NY 10457

RECOVER OF: ELIZABETH ALIBIZU ACEVEDO.

RESIDING AT: 811 E. 167TH STREET, APT. 2A, BRONX, NY 10459-2771

THE SUM OF \$3,793.91 WITH INTEREST OF \$2,105.62 MAKING A TOTAL OF \$5,599.53 TOGETHER WITH \$130.00 COSTS AND DISBURSEMENTS, AMOUNTING IN ALL TO THE SUM OF \$6,029.53 TOGETHER WITH

ALL OTHER CAUSES OF ACTION ARE HEREBY WAIVED.

CLERK'S OFFICE

<u>--- SEP 2-6</u> 2012

CIVIL COURT BRONX COUNTYPage 6 CIVIL COURT OF THE CITY OF NEW YORK COUNTY OF BRONX

2246 WEBSTER AVENUE, HDFC,

PLAINTIFF(S)

INDEX NO. 48720/11

AGAINST

ELIZABETH ALIBIZU ACEVEDO,

DEFENDANT(S)

AFTER STIPULATION JUDGMENT

\$5,899.53 Amount Claimed with Interest Costs and Disbursements

Total:

\$6,029.53

181 WESTCHESTER AVENUE, SUITE 500C PORT CHESTER, NEW YORK 10573 KAVULICH & ASSOCIATES, P.C. ATTORNEY FOR PLAINTIFF PHONE: 914-355-2074 Standard Control of the Control of t

It is hereby stipulated and agreed by and between the parties that the above-referenced action is settled as follows: Paintiff shall accept 2000 \$200 tull set Thement of all nums payable as follows: Commencing January 20, 2012 and on or set for the 30 th of the server 10 the event of default, plantiff shall 10 the state of the same interest from \$19391 10 the event of default, plantiff shall 10 the state of the past of the past of the state of the state of the same of the past of the state of the same of the past of the same of t	CIVIL COURT OF THE CITY OF NEW YO County of PROCEPT AVENUE Plaintiff(s), -against- Defendant(s).	STIPULATION 3817 Civil Court of the City of New York JAN 0 3 2012 ENTERED BRONX COUNTY
action is settled as follows: Maintiff shall accept to 2000 & as full settlement of all sounds payable as follows: commencing January 30, 2012 and on or before the 30 th of sery month. Thereafter 50% per month. There of the following per month. The event of elegater plaintiff shall accept the 30 th of the elegater for a 1993 91 to 50sts, fees, disbursements and interest from 3,993 91 to 50sts, fees, disbursements and interest from 3,993 91 to 50sts, fees, disbursements and interest from 3,993 91 to 50sts, fees, disbursements and interest from 3,993 91 to 50sts, fees, disbursements and interest from 1 to 50sts, fees, disbursements. It is a supplied to the payable for the payabl	It is hereby stipulated and agreed by and b	netween the parties that the above-referenced
مناه المناه المن	action is settled as follows: Mainth of 2000 & Stull set 2000 & Stull set 2000 & Stull set 2000 & Stull set 2000 & Store of the exent of default of the exent	Trement of all Signature Fight Accept Trement of all Signature Trement

Knyulich & Associates, P.C. 181 Westchester Avenue Suite 500C

Port Chester, NY 10573 Phone: (914) 355-2074 Fax: (914) 355-2078

August 28, 2012 Elizabeth Alibizu Acevedo 811 E. 167th Street Apt. 2A Bronx, NY 10459-2771

Re: Defaulted Stipulation

2246 Webster Avenue, HDFC

File No.: 13817

Dear Elizabeth Alibizu Acevedo:

You are in default of your payment under the stipulation signed by you. Please be advised that if the default is not cured within 10 days of the date of this letter, my client will pursue all remedies available to it under law.

Kindly forward all remittances to us, payable to the law firm of Kavulich & Associates, P.C. at 181 Westchester Ave., Suite 500C, Port Chester, NY 10573 with your file number on said payment. Thank you for your attention to this matter.

- All

Very Truly

Gary Kavulich, Esq.

This is an attempt to collect a debt. Any information obtained will be used for that purpose. This communication is from a debt collector.

2246 Webster Avenue, HDFC,	4 27 49790(1)
	Index No. 48720/11 File No. 13817.0
Plaintiff,	
-against-	AFFIDAVIT OF
Elizabeth Alibizu Acevedo	INVESTIGATOR
3605 Defendant(s).	
X	
STATE OF NEW YORK)	
COUNTY OF WESTCHESTER)SS.: 3605	
I am over 18 years of age, am not a party to this action a State of New York.	nd reside in Westchester County,
I have been requested by Kavulich & Associates, P.C. at an investigation to ascertain if the Defendant(s) Elizabet time in military service for the purpose of entry of judgo	li Alibian Angresta is as a
On September 25, 2012, I Donise Miranda, contacted the concerning the Defendant Elizabeth Alibizu Acevedo mi	: Defense manpower Date Center litary status.
	bor, as provided by the Defendant him/herself, into the Defense
Under the Defendant's social security number I received Manpower Data Center stating that the said Defendant is service of the United States and the State of New York (1)	About consequently 7- 12 and and

Swom to before of 25 Day of

Notary Public

GARY KAVELICH
MOTARY PUBLIC STATE OF NEW YORK
MO:02KA6205615
OUALIFIED IN WESTCHESTER COUNTY
MY COMMISSION EXPIRES 05/11/2013

Denise Miranda



Pursuant to Servicemembers Civil Relief Act

Last Name: ACEVEDO First Name: ELIZABETH Middle Name: ALIBIZU

Active Duty Status As Of: Sep-25-2012

	On Activo Duty On Ac	chie Duly States Date	,
Active Duty Start Date	Active Outy End Date	Status	Service Component
HV	NA	No ·	NA
This response religious the process of the Active Duty Status Dele			

			7.42
Left Active Duty Within 367 Days of Active Duty Status Date			
Active Duty Start Date	Active Duty End Oato	Stalus	Sorvice Component
NA.	, NA,	No Y	NA
This response reliects where the individual fell active duty status fulfilm 367 days preceding the Active Duty Status Date			

	The Member of Mis/Her Unit Was Notified of a Fuju	o Call-Up to Active Didy on Active Duly Status Date	- 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1
Order Notification Start Date	Order Notification End Date	Status	Service Component
NA	NA.	No sales	NA
This response reflects whether the individual or higher unit has received early notification to report for active duty			

Upon searching the data banks of the Department of Detense Manpower Data Center, based on the information that you provided, the above is the status of the individual on the active duty status date as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard). This status includes information on a Servicemember or his/her unit receiving notification of future orders to report for Active Duty.

Mary M. Snavely-Dison, Director

Department of Defense - Manpower Data Center

4800 Mark Center Drive, Suite 04E25

Adington, VA 22350

. . - - way prostretty known as

individual is currently on active duty" responses, and has experienced only a small error rate. In the event the individual referenced above, or any tamily member, friend, or representative asserts in any manner that the individual was on active duty for the active duty status date, or is otherwise smitted to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service via the "detensalink.mil" URL: http://www.defenselink.mil/laq/pis/PC09SLDR.html. If you have evidence the person was on active duty for the active duty status date and you tall to obtain this additional Service verification, puritive provisions of the SCRA may be invoked against you. See 50 USC App. § 521(c).

This response reflects the following information: (1) The individual's Active Duty status on the Active Duty Status Date (2) Whether the individual loft Active Duty status within 367 days preceding the Active Duty Status Date (3) Whether the individual or his/ner unit received early notification to report for active duty on the Active Duty Status Date.

More information on "Active Duty Status"

Active duty status as reported in this certificate is defined in accordance with 10 USC § 101(d) (1). Prior to 2010 only some of the active duty periods lass than 30 consecutive days in length were available. In the case of a member of the National Guard, this includes service under a call to active service authorized by the President or the Secretary of Defense under 32 USC § 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy Training and Administration of the Reserves (TARs), Marine Corps Active Reserve (ARs) and Coast Guard Reserve Program Administrator (RPAs). Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Almospheric Administration (NOAA Commissioned Corps).

Coverage Under the SCRA is Broader in Some Cases

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as an Active Duty under this certificate. SCRA protections are for Title 10 and Title 14 active duty records for all the Uniformed Services periods. Title 32 periods of Active Duty are not covered by SCRA, as defined in accordance with 10 USC § 101(d)(1).

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seaking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for instuction. The Last Date on Active Duty entry is important because a number of protections of the SCRA extend bayond the last dates of active duty.

Those who could rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members undor the SCRA are protected

WARNING: This certificate was provided based on a tast name, SSN/date of birth, and active duty status date provided by the requester. Providing erroneous information will cause an arroneous conflicate to be provided.

Certificate ID: RT2DJKIKJJ

Case 1:16-cv-02134-ALC Document 86-5	7 Filed 08/18/17 Page 13 of 110
34	(7)
Civil Court of the City of New York	
County of Bronx Part 34C	
2246 Webster Avenue, HDFC	Index Number CV-048720-11/BX ORDER TO SHOW CAUSE
-against- Elizabeth Alibizu Acevedo 340	To Vacate a Judgment, restore case to the Calendar, and vacate any liens and income executions involving this defendant on this case and or to dismiss APPEARANCE IS MANDATORY
UPON the annexed affidavitr of Elizabeth William Accounts	sworn to on January 28, 2013, and upon all papers and
Let the Claimant(s)/Plaintiff(s) or Claimant(s)/Plain Civil Court of the City of New 1 851 Grand Concourse Bronx, NY 10451	ntiff(s) attorney(s) show cause at:
Part 34C on February 11,2013	Room 504
or as soon thereafter as counsel may be heard, why vacating the Judgment, restoring to the calendar, vacating the action if warranted and/or granting such other and further PENDING the hearing of this Order to Show Cause and the part of the Claimant(s)/Plaintiff(s), Claimant(s)/Plaintiff(s) at the City of New York for the enforcement of said Judgment is	an order should not be made: ag any liens and income executions and/or dismissing reclief as may be just entry of an Order thereon, let all proceedings on the ttorney(s) and agent(s) and any Marshal or Sheriff of be stayed.
SERVICE of a copy of this Order to Show Cause, and annex Claimant(s)/Plaintiff(s) or named attorney(s): She	ked Affidavit, upon the:
(Judge to Initial)	dge to Initial)
by Personal Service by "In Hand Delivery" by Certified Mail, Return Receipt Requested by First Class Mail with official Post Office Certificate of Mailing on or before	by Personal Service by "In Hand Delivery" by Certified Mail, Return Receipt Requested by First Class Mail with official Post Office Certificate of Mailing
1 Mars to ticolifica	
PROOF OF SUCH SERVICE shall be filed with the Clerk in the I Cause.	art indicated above on the return date of this Order to Show
Kavulich & Associates PC (Counsel for Pitf) 181 Westchester Avenue Suite 500C Port Chester, NY 10573 NY 181 Westchester Avenue Suite 500C Suite 500C Suite 500C	eriff/Marshal: C Marshal gel, Stephen, Marshal W 38 Street te 200 w York, NY 10018-3615
January 28, 2013	
S-) Och-let dees Signal of the S	RALD LEBOVITS JE, CIVIL COURT ALCOURT Court Judge (NYC) Court Judge

Civil Court of the City of New York, County of Bronx	CV-048720-11/BX
2246 Webster Avenue, HDFC -against- Elizabeth Alibizu Acevedo	Affidavit in Support to restore case to the calendar, and vacate any judgment, liens and income executions involving this defendant on this case, and/or to dismiss
State of New York, County of Bronx Elizabeth Alibizu Acevedo, being duly sworn, deposes and says: (Defendant's initials) 1. EA a) I am the Party named as Defendant (Respondent) in	the above titled action
1. EA a) I am the Party named as (Defendant) (Respondent) in 2. EA a) I have been served with a summons and complaint in go to #4] b) I have not been served, and my first notice of legal a skip #3, #4, #5, and go to #6] a Notice of Default Judgment mailed to me a Restraining Notice on my bank account. a copy of an income Execution served on Other:	this action. [NOTE: if Small Claims skip #3, and ction was [NOTE: if you complete any of #2b,
**	TABLE TO THE TABLE
4. En On the Date of Trial before Judge/Arbitrator a stipulation(a written agreement) was made between a judgment was entered after the trial. a judgment was entered against me by default for mother:	en claimant/plaintiff and defendant. y failure to appear.
(5.) GA My reason for not	one Figure of problems
6. La allege that I have a good defense because: I have I have not had a previous Order to Show Cause regarding the b) I have had a previous Order to Show Cause regarding the because:	Jome Francia problems, but Aside plus a except to suprementation of the plus as a factor of the plus
8. I request that the Judgment be vacated, that the case be res	
Signature of Court Employee and Title 811 E. 167th S Apt. 2A	ireet
at I wrote a letter and I sent it for the us me me opportunity to pay when my go setter.	en to know the situation and) ry financial situation got for Page 14

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CIVIL COOK! OF THE CITY OF NEW YO	ORK Index No. 48 + 120///
County of Part Part	- File 4+-
	STIPULATION 12017
2246 WEBSTER AVENUE	TOP OF SETTLEMENT
Plaintiff(s),	
	City of New York
-against-	JAN 0 3 2012
Elizabeth ALIDIZU ACEVER Defendant(s).	ENTERED ENTERED
	BRONX COUNTY
It is hereby stipulated and agreed by and h	etween the parties that the above-referenced
action is suffled as follows: Plant C	1 dall 2000 -
\$ 2000 & as full set	To mo at all
hums rayable as follow	
	- IFRU
30, 2012 and on or before	he 30th of a month
In the event of default	Plaintifeshall
	udement including 3,99391
Costs, tels, disdursements	a rainterest from (cos
July 1, 2000 upon 10 days i	DRITTEN NOTICE TO CLIVEMAL
nake payments to KAVUITO	n+Associates De
18 to establisher the nue	Suite 500C, PORTCHESTER,
NEW JORGE COSTS	A TO Include fule# 13817
Upon sanstaction of The	Des, Plaintiff shall
CONT DUONE DE CO	danta Notice of
Fill terms 7 conditions	TETE Contains the
Pignoture	- Elizabeth Delpar 1-3-17
Signature Date	Signature Date
CRIOPY OF TO Maintiff	Elizabeth Alaza 1-3-12
Signature Kind ICh & ASSOCIATES, P	Signature Date
	Tage of
CIV-GP-32 (Revised December, 2005)	Page 15
	777

ALBERTO TORRES, ESQ.

ATTORNEY AT LAW

629 MELROSE AVENUE BRONX, NEW YORK 10455 Telephone (718) 620-0106 Facsimile (718) 620-0107

February 11, 2013

Civil Court of the City of New York 851 Grand Concourse Bronx, New York 10451

Attn: Part 34C, Room 504

Rec

2246 Webster Avenue HDFC vs. Elizabeth Alibizu Acevedo Index No. 48720-2011

Dear Honorable Court:

Please accept this letter as a Notice of Appearance on behalf of Elizabeth Alibizu Acevedo. Ms. Acevedo has filed an Order to Show Cause that is returnable in this court on February 11, 2013.

Unfortunately, I have a conflict in schedule in that I am scheduled to be on trial in the matter of People vs. Henri Edwards, Docket No. 2012NY045911 in New York County.

Attached hereto is a Notice of Motion to be filed with the court requesting that the court vacate a so ordered stipulation dated January 3, 2012, and stay and vacate the execution and enforcement of a judgment dated September 27, 2012.

A copy of the motion was faxed to the attorney of record on February 7, 2013, and my assistant has an additional copy for opposing counsel.

Although it may be premature, it is requested that an immediate stay be put on the garnishment of my client's paycheck in that the likelihood of success on the merits of this application favor my client.

Finally, I shall be out of the office and leaving the country after February 13, 2013 and will be out of the country for 2 weeks. If the court shall desire, I am available to appear on February 12, 2013 to argue the motion.

I apologize for any inconveniences imposed the late filing of the motion herein, and my inability to personally appear in court. Thank you in advance for your professional courtesies.

Sincerely,

Alberto Torres

CIVIL COURT OF THE CITY OF NEW YORK COUNTY OF BRONX CIVIL COURT OF THE CITY OF NEW YORK COUNTY OF BRONX CIVIL COURT OF THE CITY OF NEW YORK COUNTY OF BRONX CIVIL COURT OF THE CITY OF NEW YORK COUNTY OF BRONX CIVIL COURT OF THE CITY OF NEW YORK COUNTY OF BRONX CIVIL COURT OF THE CITY OF NEW YORK COUNTY OF BRONX CIVIL COURT OF THE CITY OF NEW YORK COUNTY OF BRONX CIVIL COURT OF THE CITY OF NEW YORK COUNTY OF BRONX CIVIL COURT OF THE CITY OF NEW YORK COUNTY OF BRONX CIVIL COURT OF THE CITY OF NEW YORK COUNTY OF BRONX
X1X
2246 WEBSTER AVENUE HDFC,
Plaintiff(s). ORDER TO SHOW CAUSE
-against-
Index No. 48720-2011 — \$ 0.7
ELIZABETH ALIBIZU ACEVEDO.
Defendant(s). Orne Court Chy of MY - Brown Commit For their and Attendants to Afficha In Court on the Return Colombur Base
to Cadens to Cadens to Seaw Calent
Upon reading and filing of the annexed Affirmation of ALBERTO TORRES, ESQ, dated
February 7, 2013 and the Affidavit of ELIZABETH ALIBIZU ACEVEDO, sworn to the
7th day of February, 2013, and upon all pleadings and proceedings heretofore had herein:
LET the Plaintiff, or their attorneys, Show Cause before the Civil Court at PART
ROOM , to be held at the Courthouse located at 851 GRAND CONCOURSE, BRONX,
NEW YORK ON THE 11th DAY OF MARCH, 2013 at 9:30 a.m. or as soon thereafter
as counsel may be heard WHY an Order should not be entered directing the following relief:

- (a) staying, effective immediately, the execution and enforcement of a judgment dated September 27, 2012 and the Income Execution dated October 10, 2012 against Defendant:
- (b) vacating and setting aside the terms and conditions of a stipulation dated January 3, 2012 against the Defendant and placing this matter back onto the court calendar and permitting said Defendant to serve and file an answer, upon the ground of excusable default and meritorious defense;
- (c) granting such other and further relief as to the Court may seem just, reasonable and equitable.

Page 17

AND SUFFICIENT CAUSE APPEARING THEREFORE, IT IS HEREBY:

ORDERED, that all proceedings on the part of the Plaintiff, Plaintiff's attorneys, City Marshal or any other collection agency, be hereby stayed and directed not to enforce or execute on the judgment dated September 27, 2012 in any manner whatsoever;

ORDERED, that Defendant's employer is to cease and desist from responding to the Income Execution Notice dated October 18, 2012 issued by GARY KAVULICH, ESQ., and to discontinue garnishment of Defendant's paycheck until further order of this court.

ORDERED, that service by of a copy of this Order together with the papers upon which it was granted upon Plaintiff's attorneys, GARY KAVULICH, ESQ., KAVULICH & ASSOCIATES, P.C., 181 Westchester Avenue, Suite 500C, Port Chester, New York 10573, Telephone number (914) 355-2074 and Fax number (914) 355-2078, on or before the 21 st day of February, 2013 and filed with the Clerk of this Court on the return date be deemed sufficient.

Dated: Bronx, New York February , 2013

FEB 1 3 2013

ENTER:

PROOF OF SERVICE SHALL BE FILED WITH THE CLERK OF CIVIL COURT ON THE RETURN DATE.

Hen. Joseph Capella

CIVIL COURT OF THE CITY OF NEW YORK COUNTY OF BRONX	
2246 WEBSTER AVENUE HDFC.	Index No. 48720-2011
Plaintiff,	
-against-	AFFIRMATION OF EMERGENCY
ELIZABETH ALIBIZU ACEVEDO.	
Defendant(s).	
STATE OF NEW YORK	

) ss:

COUNTY OF BRONX

ALBERTO TORRES, an attorney duly admitted to practice law before the Courts of the State of New York, pursuant to CPLR § 2106, under penalties of perjury, affirms as follows:

- I am the attorney for ELIZABETH ALIBIZU, Defendant in the abovecaptioned matter and as such I am fully familiar with the facts and circumstances of this case.
- I respectfully submit this Affirmation in Support of Defendant's application herein.
- 3. That upon information and belief, in or about January 2013, Defendant who was not notified by her employer that they were served with an Income Execution Notice on a judgment dated September 27, 2012, realized that her employer had started garnishing Defendant's wages.
- 4. That Defendant respectfully files the instant application wherein she states in her Affidavit she had been paying \$50.00 per month pursuant to the stipulation for a total of \$500.00, and that an additional \$900.00 has been garnished from her wages.
- 5. That on February 4, 2013, I spoke to Defendant and reviewed various documents, including the complaint (See Exhibit G)

Case 1:16-cv-02134-ALC Document 86-57 Filed 08/18/17 Page 20 of 110

6. That Defendant then became aware that she was sued for alleged rents

from July 2006 to November 2006, however, Defendant stated and provided

documentary proofs that her (1) lease expired on April 30, 2006 (See Exhibit D), (2) she

paid rents through June 2006 (See Exhibit E), and (3) moved into an apartment with the

New York City Housing Authority (NYCHA) in June 2006. (See Exhibit F)

That Defendant in her Answer filed with this court stated that she disputed

the debt and the defense of unjust enrichment.

8. That this matter is an emergency in that my client's check is being

garnished for a debt that she does not owe, and in fact Defendant is entitled to a refund of

\$500.00 she made pursuant to a stipulation, and \$900.00 for the garnishment of

Defendant's paychecks.

9. That no prior application has been made for the relief herein.

WHEREFORE, this deponent respectfully prays for an order directing that the:

(a) vacating and staying, effective immediately, the execution and enforcement of a judgment dated September 27, 2012 and vacating the terms and conditions of a stipulation dated January 3, 2012.

against Defendant;

(b) vacating and setting aside the judgment against the Defendant and placing this matter back onto the court calendar and permitting said Defendant to serve and file an answer, upon the ground that Defendant has documentary proofs that she is not obligated to pay

this alleged debt;

(c) granting of such other and further relief as to the Court may seem.

just, reasonable and equitable.

Dated: Bronx, New York February 7, 2013

ALBERTO TORRES, ESQ.

	oa oo, 10, 11, 11, 11, 11, 11, 11, 11, 11, 11
COUNTY OF BRONX	
2246 WEBSTER AVENUE HDFC.	Index No. 48720-2011
Plaintiff.	
-against-	AFFIDAVIT IN SUPPORT
ELIZABETH ALIBIZU ACEVEDO.	
Defendant(s).	

ELIZABETH ALIBIZU, being duly sworn, deposes and says:

\ss.

STATE OF NEW YORK

COUNTY OF BRONX

- I am a named Defendant in the above referenced matter.
- 2. That on or about January 2013, I reviewed my paystub and discovered that my employer was garnishing my wages for some unknown debt. I was told that the garnishment was for the mater herein and immediately retrieved a copy from this court of an Income Execution Notice dated October 10, 2012 showing that Plaintiff was able to get a judgment against me for \$6,029.53. (See Exhibit A)
- 3. That I consulted with an attorney and told him that my payroll check was being garnished, although I was making payments (See Exhibit B) pursuant to a stipulation with this court dated January 3, 2012. (See Exhibit C)
- 4. That in reviewing the complaint, my attorney advised me that the lawsuit was for unpaid rents from July 2006 to November 2006, when in fact I had already vacated and surrendered the apartment. (See Exhibit G)
- 5. That I have a meritorious defense in that I had no contractual obligations with the Plaintiff herein who misrepresented in documents filed with this court that they Page 21

Case 1:16-cv-02134-ALC Document 86-57 Filed 08/18/17 Page 22 of 110 are entitled to rents for July 2006 through November 2006 when in fact (1) my lease expired in June 2006. (See Exhibit D), (2) I had paid rent through June 2006 and gave the landlord my security deposit (See Exhibit E) and (3) moved into an apartment at the New York City Housing Authority (NYCHA) in June 2006. (See Exhibit F)

- 6. That I do not owe this alleged debt because I had no contractual agreement obligations with Plaintiff, and the signing of the stipulation under false pretenses and judgment against me should be vacated so that I can defend this case on the merits.
- 7. That as I stated before, I vacated the apartment, paid my rent and surrendered my security deposit to Plaintiff in June 2006, and moved into an apartment with NYCHA.
- 8. Therefore, I request that this court vacate the stipulation, dated January 3, 2012, and judgment, dated September 27, 2012, and give me an opportunity to defend myself on the grounds that I did not owe Plaintiff any rents subsequent to my vacating the apartment.
- 9. That I would also request that this court order Plaintiff to reimburse me \$500.00 I paid pursuant to the stipulation, and \$900.00 that has been garnished from my pay through January 2013.
- 10. It is also requested that the court order a stay on the garnishment of my wages pending the final resolution of this matter.
- 11. That no prior application has been made for the relief that Plaintiff request herein.

WHEREFORE, it is respectfully requested that this Court grant the relief requested and for such other and further relief as this Court deems just and proper.

Page 22

Dated: Bronx, New York February 4, 2013

Elizabeth Albizu

Subscribed and sworn to before me on this 4 day of February, 2013

NOTARY PUBLIC

ALBERTO TORRES
Notarly Public State Of New York
No.01T04849926
Qualified In Bronx County
Commission Expires January 27,20

CIVIL COURT OF THE CITY OF NEW YOR COUNTY OF BRONX	
2246 WEBSTER AVENUE HDFC,	Index No. 48720-2011
Plaintiff.	
-against-	AFFIDAVIT OF SERVICE
ELIZABETH ALIBIZU ACEVEDO,	
Defendant(s).	X
STATE OF NEW YORK)) ss.: COUNTY OF THE BRONX)	
SORAYA CARABALLO, being duly	sworn, deposes and says:
in the State of New York, County of New York (2) On the Pday of February, 2013 MOTION to the Attorney(s) at the GARY KAVUL	, deponent served the within NOTICE OF eir designated address(es): ICH, ESQ.
KAVULICH & ASSO 181 Westchester Ave. Port Chester, New	nue, Suite 500C
VIA FACSIMILE and BY DEPOSITING in a pexclusive care of the United States Postal Service copy thereof in a properly stamped envelope adstated.	gice within the State of New York a true
Sor	aya Carabatto
Subscribed and sworn to before me on this Aday of Frauny, 2013	
W///	

NOTARY PUBLIC

ALBERTO TORRES
Notarty Public State Of New York
No.01T04849926
Qualified In Bronx Gounty
Commission Expires January 27,20

Page 25

Exhibit A Exhibit B Exhibit C Exhibit D Exhibit E Exhibit F



CIVIL COURT OF THE	CITY OF NEW	YORK
COUNTY OF BRONX		

2246 Webster Avenue, HDFC.

Plaintiff.

Court Index No. 48720/11 13817.0 File No.

INCOME EXECUTION

Against

Elizabeth Alibizu Acevedo.

Defendant(s)

The People of the State of New York

The following judgment was duly entered in favor of the plaintiff (judgment creditor) in the office of the clerk of the within countries

Court of Original Entry

Entry Date

Original Amount

Amount Due

Plus Interest From

CIVIL COURT OF THE CITY OF NEW YORK 9/27/2012 12:00:00 AM \$6,029.53

\$6,029,53

9/27/2012 12:00:00

AMCOUNTY OF BRONX

The judgment was recovered against And transcripted with the county clerk(s) of

Elizabeth Alibizu Acevedo

Bronx

defendant (judgment debter)

WHEREAS, this execution is issued against

Elizabeth Alibiza Acevedo

defendant (judgment

debiari

Whose last known address is:

811 E. 167th Street

Apt., 2A Bronx, NY 10459-2771

and said defendant (judgment school is receiving or will receive from the Employer* whose name and address is

Milford Plaza Hotel 700 8th Avenue New York, NY 10036 Attn: Payroll

More than \$ Title or position per week, to wit \$

Sec Sec. and/ponsico No-

to be paid weekly installment of S

each-Haden

<u>Bureon, Office or Subdivision</u>

3605

You are directed to satisfy the judgment with interest together with your fees' and expense, out of all manies now and hereafter due owing to the judgment debtor from the Employer pursuant to CPLR % 5231 d 15 U.S.C 1671, et. Seq.

Direction to Judgment Debtor: You are notified and commanded within 20 days o start paying to the Enforcement Officer serving a copy of this income Execution on you: installments amounting to 10(hut no more than the Federal limits set forth in I. Limitstons on the amount that can be withheld, below) of any and all salary, wages or other income, including any and all overtime enumings, commissions or other irregular compensation received or hereafter to be received from your Employer and to continue paying such installments until the judgment with interest and the fees and expenses of this Income execution are fully paid and satisfied, and if you fail to do so this Income Execution will be served upon the Employer by the Enforcement Officer.

Direction to the Employer You are commanded to withhold and pay over to the Enforcement Officer serving a copy of this Income Execution on you installments amounting to 10% (but no more than the Federal limits set fourth in I. Limitations on the amount that can be withheld, below) of any and all salary, wages or other income, including any and all overtime carnings, commissions or other progular compensation now or hereafter becoming due to judgment debtor until the judgment with interest and fees and expenses of this

Income Execution are fully paid and satisfied.

Dated 19/10/2012

Gary Karulich Esq. Kavulich & Associates, P.C. 181 Westchester Avenue, Suite 5600 Port Chester, MY 10573 (914) 355-2074

"Employer, " herein, includes any payor of money to Judgment Debtor.

Important Statement

This income execution directs the withhelding of up to 10 percent of the judgment debter's gross income. In certain cases, however, state or federal law does not permit the withholding of that much of the judgment debtor's gross income. The judgment debtor to referred to New York Civil Practice Law and Rules % 5231 and 15 United State Code % 1671 et seq.

I, Limitation on the amount that can be withheld

A. An income execution for installments from a judgment debtor's gross income cannot exceed ten percent (19%) of the udgment debior's gross meone.



Page 27
Exhibit F

DAD THIS DIRECTION, THIS SIDE UP

Kavulich + Assoc

Try the new Western Union Payments service for all your bills and get guaranteed proof of payment. To learn more and to search over 10

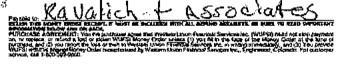
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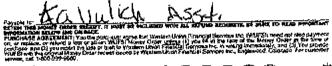


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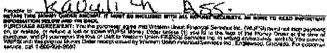


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Page 29

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(M)

CIVIL COURT OF THE CITY OF NEW YORK COURTY OF THE CITY OF NEW YORK FILE # STIPULATION 13617 Plaintiff(s). Plaintiff(s). Gry Court Of the Off New York JAN 0 3 2012 ENTERED BEONX COURT.
It is hereby stipulated and agreed by and between the parties that the above-referenced
action is sented as follows: Plantiff shall accept \$ 2000 \$ 25 full settlement of all Sound payable as follows: Commencing January 50, 2012 and on or letge the 30th of the month 10 the event of detault plaintiff shall 10 the event of the detaut to include fueth 13817 10 the same upon the detaut on contains the 10 the terms of conditions of this Agreement
Signature Date Signature Date Signature Date Signature Date CIV-GP-12 (Revised December, 2005) Date Date Signature Date Date Date Date Date Date

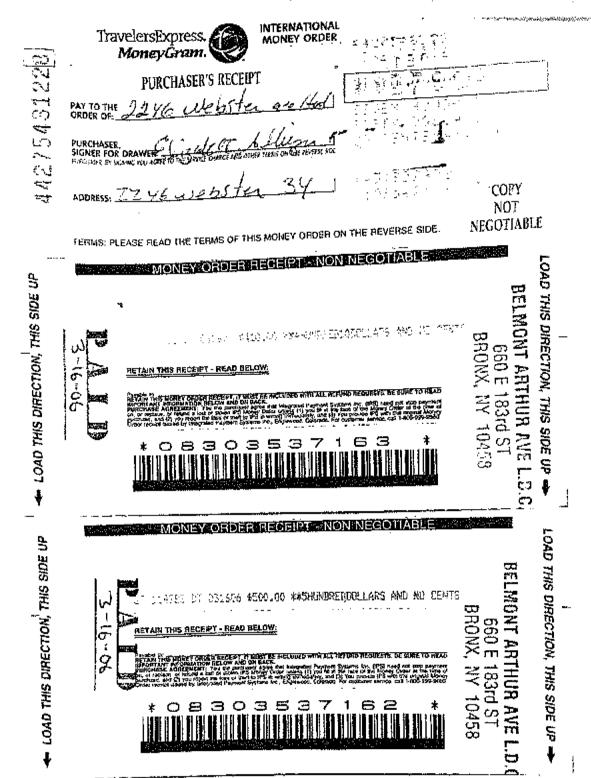
Page 33

Exhibit E

Exhibit F

	1	RENEW	AL LEASE	E FORM		· · · · · · · · · · · · · · · · · · ·	477,74
Differen	ASTIONS TO OWNERS IS A NOTICE FOR ANT TO SECTION OF THIS FORM M	and TO TENANT on re RENEWAL OF L	everse side before f EASE AND RE ENEW YORK BELOW AND!	itting our signing this f	PIT LEATION (ULGATED FODE. ALL ORD WITHIN	
			60 DAYS.	Date: 01/08/2			
ACEAEDO	nc and Address: D, ELIZABETH STER AVENUE, 34 YY 10457			Owner's/Agent Name & 2246 Webster Aven C/O Belmont Arthu 660 East 183rd Stre	ue HDFC ir Ave LDC	458	
t. The own	ner heroby notifies			2.0+011(0.1) (2.2)		este and as a control of the second of	
7 1/		_PARTA = OFF	R TO TESAN	T. GOLEVITS		A Secretary of the Secr	
- You ma	y renew this lease, (for one year or two	years, at your	option, as follows:			
Col a E. noval Ferm	Cot. b Legal rent on Sept. 30 ptocelling consumment date of rbix Renewal Louise	CoL c Authorized applicable Guideline increase (If unknown, check box and see below)*	Cot, à Applicable guideline supplement, if any	Col. c Lawfut even increase adj., if any. effective after Sept. 10 th indicated in Col. b	Col. f Separate charge, if any (Specify under item 4 below)	Col. 8 New rent (If fower cent is to be changed check bus and sec 3 below)**	
□1 Near □2 Year	\$ 792.27 SAME AS ABOVE	(4.50%) \$35.65 (7.50%) \$59.42	\$0.00 \$0.00	\$0.00 \$0.00	\$0.00 \$0.00	\$827.92 \$851.69	
Preferential	Rent						
□ 1 Year □ 2 Year	SAME AS ABOVE	(4.50%) \$ (7.50%) \$	\$0.00 \$0.00	\$0,00 \$0.00	\$0.00 \$0.00	s s	
Contents B Correct Specify 5 Air (421) Cover 1 Chis rene 96 days r lease sha Chis rener revisions att indicate in the	Deposit: S 792.27 Adeposit: S 792.27 Adeposit: S 792.27 Adeposit: S 792.27 Adeposit: Electricity (a (2.2%): S 0.00/mo, Other to be charged, it ewal lease shall common more than 150 do it terminate on 04/31 wal lease is based on t	dditional Deposit Recollicable: Charge: \$ 0.00/mo Uner (Describa): if any. \$	quired – 1 year le it Charge: \$ 0.00/a 4, which shall no alling or persons ase or 04/30/20 anditions as your ments between or of additional pro by the owner be ander the Rent	Agrees Agrees	newal Lease Form the Control of the	Jyes □no a. This renewal lawful dded, d). der setting this lease	
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an response be when was serve	nd complete where indica- low. You must return the d upon you by the owner ment.	is Renewal Lease Form t . Your failure to do so n	o the owner in pers any be grounds for -	on or by regular mail, the commencement of a	within 60 days of the n action by the owne	date this er to evict you	
1 (we) the	e undersigned tensi L. This renewal lead tawful provisions	ase is based on the s	ame terms and	conditions as my (c	ur) expiring leas	c, and	
] I (we) wi	II not renew my (ou	r) lease and I (we)	intend to vaca	te the apartment	on the expiration	n date of	
e present le Dared 9 -	ease set forth above	Tenant's Signature	4 9	with I	courdo)	
	110 004				1		







Page 37 Exhibit F

MYCHA .	LC t Office
UNIUM A	JE & EAST 166 SYDEET
381 REV.	J.A. POLITE AVENUE, BRONX

New York City Housing Authority LEASE ADDENDUM AND RENT NOTICE

06/16/2006

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Development UNION AVERUE & EAST 166 S Account 356-085-02A

Annual Income Review Guarter ONE YEAR LEASE EFFECTIVE DATE (F.D.) 02/01/2006 APARTMENT SIZE 05

RENT NOTICE # 3560153806

* #15 ALBIZU, ELIZABETH Hodress 811 EASY 167TH ST APT 02A BRONX NY 10459

Ten 13- 1

See detail below)

The Larry of the tres tesse Addendum / Rent Notice after to completed a neview of your family composition and the control of the result of the previow. NYCHA has determined your rent. MYCHA has updated its records of the control of

isnes, translation and engine insombation as indicated in this waite.

619.00

I. FAMILY COMPOSITION AND OCCUPANCY NOTICE

is following, are the names of each authorized member of your household. If any of the persons listed has a child in the following harmonist or is declared by a court to be the guardian of a child the lists to manently reside in the tousehold if you report the child to the Housing Manager. No other person is intitled to reside personnerly in the household unless the Housing Manager grants you WRITTEN PERMISSION to add the personner to however the personner. ერთე ბგურატი და დაცი ბაცვლდებდებ

7.45×0	SOCIAL SECURITY	TC STAG	NAME	NE OF BLATE
WISTMI ECTRASETM MURALES, EZGAR : MIEVERO, SAHARA 4 ACEVERO ELIZABETA	2605 3605 3009 9853 5951	9181H 1962 1983 1987 1989		

IT. RENT NOTICE

the state of the s * Your new MONTHLY rent plus recurring charges beginning 06/01/2006 is......\$ 519.00 after NYCHA completed an MOVE-IN tocote ceview. an 1967 INCREASED

111. CHOICE OF RENT CALCULATION

isseral requiestions permit the Housing Authority to calculate your cent in one of two ways, either INCOME BASED RENT OR FLAT RENT and gives you the right to choose which method you prefer. Since NYTHA sums that you will always want to pay the lower amount of rent, we automatically charge you the lower amount. Impane the following two types of rent Your NEW RENT listed above is based on the LESSER of these two amounts:

RENT BASED ON INCOME: 30% of adjusted gross income less allowable deductions OR the Welfare Shelter allowance less any living allowance if you may a stillty bill directly to the ability company, plus additional recurring charges is a second of the ability company.

857.00

. RENT BASED ON A FLAT RENT: Based on rent charged for simpler sized apartment in a provate bubiding, plus additional

<u>619.00</u>

- vow wish to pay the higher amount or have questions about rent. You may request a meeting with your Housing Assistant

Eq. a detail of recurring changes, such as parking or air conditioner fees, see attached page.

Notice of Rights: You may request a seeting with your Housing Assistant to review the above information. If at the meeting you have some information is wrong or that your rent was calculated incorrectly, you may request a grievance hearing with the firm of Management Office.

prepared by Housing Assistant

SANORA MEJIAS.

Date 06/16/2005

Approved and Signed by Housing Manager FRANCISCO DEJE

Date 06/16 2006

Jagan (146, 523) 04765.

CIVIL COURT OF THE	CITY	OF	NEW	YORK
COUNTY OF BRONX				

048720 11

2246 Webster Avenue, HDFC. Plaintiff.

INDEX NO. FILE NO. 13817.0

-against-

SUMMONS Place of Venue is Plaintiff's place of business:

Elizabeth Alibizu Acevedo,

2246 Webster Avenue Bronx, NY 10457

Defendant(s)

To the above named defendants(s):

YOU ARE HEREBY SUMMONED to appear at the CIVIL COURT OF THE CITY OF NEW YORK, COUNTY OF BRONX at the office of the clerk of the said Court at 851 Grand Concourse, Bronx, NY 10451, in the COUNTY OF BRONX, State of New York, within the time provided by law as noted below and to file an answer to the below complaint with theclerk: upon your failure to answer, judgment will be taken against you for the sum of \$5,693[9] with interest thereon from July 1, 2006 together with costs of this action.

DATED: July 1, 2011

FEE PATD

CIVIL COUNT BRONX COUNTY By: Gary Kavulich, Esq., Kavulich & Associates, P.C. Attorney for Plaintiff 181 Westchester Avenue Suite 500C Port Chester, NY 10573

(914) 355-2074

Defendant's Address: Elizabeth Alibizu Acevedo 811 E. 167th Street, Apt. 2A Bronx, NY 10459-2771

Note: The law provides that: (a) If the summons is served by its delivery to you personally within the City of New York, you must appear and answer within TWENTY days after such service: or (b) If the summons is served by any means other than personal delivery to you within the City of New York, you must appear and answer within THIRTY days after proof of service thereof is filed with the Clerk of this Court.

3x mail



COMPLAINT

FIRST ACTION: Plaintiff seeks to recover damages from defendant(s) for breach of a lease agreement in the sum of \$3,993.91 representing rental arrears for the months of July, 2006 balance of \$399.79; August, 2006 through and including November, 2006 at the agreed monthly sum of \$898.53 for the premises known as 2246 Webster Avenue, Apt.34 Bronx, NY 10457 together with costs and disbursements of this action and for such other and further relief as the court may deem just.

SECOND ACTION: Plaintiff seeks to recover damages from the defendant in the sum of \$600.00 representing damages together with costs and disbursements of this action and for such other and further relief as the Court may deem just.

THIRD ACTION: Plaintiff seeks to recover damages from the defendant in the sum of \$500.00 representing reasonable attorneys fees together with costs and disbursements of this action and for such other further relief as the Court may deem just.

WHEREFORE, Plaintiff demands judgment (A) on the First Action, in the sum of \$3,993.91 plus interest from July 1, 2006 together with costs and disbursements of this action and for such other and further relief as the Court may deem just, (B) on the Second Action, in the sum of \$600.00 plus interest from July 1, 2006 together with costs and disbursements of this action and for such other and further relief as the Court may deem just, (C) on the Third Action, in the sum of \$500.00 together with costs and disbursements of this action and for such other and further relief as the Court may deem just.

The Plaintiff in this action is NOT required to be licensed by the New York City Department of Consumer Affairs.

 (C_{i})

Case 1:16-cv-02134-ALC Document 86-57 Filed 08/18/17 Page 42 of 110

CIVIL COURT OF THE CITY OF NEW YORK COUNTY OF BRONX

Index No. 48720-2011

2246 WEBSTER AVE	SNUE	HDFC,
------------------	------	-------

Plaintiff(s),

-against-

ELIZABETH ALIBIZU ACEVEDO,

Defendant(s).

ORDER TO SHOW CAUSE

ALBERTO TORRES, ESQ. 629 Meirose Avenue Bronx, New York 10455 Tel No. (718) 620-0106 Fax No. (718) 620-0107

ATTORNEY FOR DEFENDANT ELIZABETH ALIBIZU ACEVEDO

Pursuant to 22 NYCRR 130-1.1, the undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information and belief and reasonable impury, the contentions contained in the annexed document are not frivalous.

Natari 2-2-2013

Signature

Signer's Name: Alberto Torres, Esq.

Page 42*

CIVIL COURT OF THE CIT	-ALC Document 86-57 IY OF NEW YORK		Page 43 of 110
2246 WEBSTER AVENUE		Inde	x No. 48720-2011
	Plaintiff,		
-against-		,	IDAVIT OF VICE
ELIZABETH ALIBIZU AC	EVEDO,	.53,510	v ICI
	Defendant(s).		
STATE OF NEW YORK COUNTY OF THE BRONX) ss.:	X	
SORAYA CARAB	ALLO, being duly sworn, d	eposes and says:	
the State of New York, Cour	day of February 2013, dep	onent served the	e within ORDER TO
	GARY KAVULICH, I KAVULICH & ASSOCIAT 181 Westchester Avenue, St Port Chester, New York	TES, P.C. uite 500C	
VIA CERTIFIED MAIL an depository under the exclusive York a true copy thereof in addresses stated.	ve care of the United States I	Postal Carolina wi	Alain tha Dane . Oak
	~D	α	1

Subscribed and sworn to before me on this 25 day of 1100 + 201

ALBERTO TORRES
Notarty Public State Of New York
No.01T04849926
Qualified In Bronx County
Commission Expires January 27,20

Soraya CarabaHb

NOTARY PUBLIC

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

INDEX NO. 48720/11 FILE NO. 13817

2246 WEBSTER AVENUE, HDFC,

Plaintiff,

-against-

AFFIRMATION IN OPPOSITION TO DEFENDANT'S ORDER TO SHOW CAUSE

ELIZABETH ALIBIZU ACEVEDO,

Defendant.	

GARY M. KAVULICH, ESQ., an attorney duly admitted to practice law before the courts of the State of New York hereby affirms the following under the penalty of perjury pursuant to CPLR 2106.

- I am an Associate of the law firm of Kavulich & Associates, P.C., Attorneys for the Plaintiff herein, and as such, I am fully familiar with the facts and circumstances of the within proceeding, except as to those matters stated to be based upon information and belief, and as to those matters, I believe them to be true. The basis of my belief is information furnished to me by my client, information contained within the court's file, and information contained within the files as maintained by your Affirmant's office.
- 2. I make this affirmation in opposition to the Defendant's instant Order to Show Cause which seeks to stay Plaintiff's execution measures, vacate the Parties' January 3, 2012 Stipulation, and restore this matter to this Courts calendar. Please see the Defendant's Order to Show Cause annexed hereto as Exhibit "1."
- 3. Your Affirmant respectfully points out that on January 28, 2013 Defendant filed a prose motion seeking to vacate the judgment and stipulation in this matter. Then, on February 7, 2013 Defendant retained counsel who submitted a supplemental motion seeking that same relief. Plaintiff



now opposes that February 27, 2013 motion and addresses the items raised in Defendant's January 28. 2013 motion.

BACKGROUND

- 4. The within proceeding was commenced against Defendant to recover rental arrears in the amount of \$3,993.91, and \$600.00 in damages, due and owing by Defendant to Plaintiff pursuant to the Parties' rent stabilized lease agreement for the premises known as 2246 Webster Avenue, Apt. 34, Bronx, NY 10457. Please see the Parties lease agreement with subsequent renewal annexed hereto as Exhibit "2." Annexed hereto as Exhibit "3" is the affidavit of Plaintiff's managing agent, Tara Grekulak.
- 5. The original lease agreement was for the period commencing May 1, 2003 and through and including April 30, 2004. Please see the aforementioned Exhibit "1."
- 6. Thereafter, the Parties executed and entered a two (2) year renewal lease thereof for the period commencing May 1, 2004 through and including April 30, 2006.
- 7. As the end of that term approached, Plaintiff sent to Defendant a lease renewal agreement to which Defendant failed to respond. Please see the aforementioned Exhibit "3."
- 8. Despite failing to respond to that lease agreement, Defendant continued to pay rent through June of 2006. Please see the aforementioned Exhibit "3." Please see Plaintiff's tenant ledger annexed hereto as Exhibit "4." Please see Defendant's affidavit
- 9. However, Defendant did not vacate the premises until on or about August 5, 2006. Please see the aforementioned Exhibit "3."
- 10. Therefore, pursuant to the Parties' lease and the laws of New York which govern rent stabilized leases/tenancies, Defendant satisfied the conditions of a deemed renewal.

[2]

- 11. As pursuant to Defendant's vacatur, Plaintiff sought to mitigate its damages through the application of Defendant's security deposit to the arrears balance owed and through the re-rental of the subject premises in December, 2006. Please see the aforementioned Exhibit "3."
- 12. Therefore, Defendant is hable to Plaintiff for rent for the months of July, 2006 balance of \$399.79; and August 2006 through and including November 2006 at the agreed upon monthly sum of \$898.53. Please see the aforementioned Exhibit "3."
- 13. Plaintiff commenced this action seeking to recover those monies on or about July14, 2011. Please see the summons and complaint annexed hereto as Exhibit "5."
- 14. Defendant interposed an answer on or about November 21, 2011. Please see Defendant's answer annexed hereto as Exhibit "6."
- 15. Thereafter, at a pre-trial conference of this matter on January 3, 2012, by way of a So-Ordered Stipulation, the Parties hereto settled this matter in the sum of \$2,000.00 at the rate of \$50.00 per month until that sum had been paid in full. Please see a copy of that Stipulation of Settlement annexed hereto as Exhibit "7."
- 16. Also per the terms of that Stipulation of Settlement, Defendant agreed that in the event she should default on that settlement, Plaintiff was entitled to judgment in the full amount of Defendant's arrears balance, \$3,993.91, less any amount paid, with interest thereon from July 1, 2006. Please see the aforementioned Exhibit "6." Please see the aforementioned Exhibit "2."
- 17. Further, upon Defendant's default, Plaintiff was to provide to Defendant with a notice of default and 10-day opportunity to cure said default. Please see the aforementioned Exhibit "7,"

- 18. Pursuant to the Parties' stipulation, Plaintiff collected \$200.00. Please see the aforementioned Exhibit "3."
- 19. However, Defendant defaulted on that stipulation on at least three occasions.
 Please see the aforementioned Exhibit "3."
- 20. Pursuant to the stipulation, Plaintiff sent to Defendant the requisite default notices. Please see those default notices annexed hereto as Exhibit "8."
- Thereafter, upon Defendant's failure to cure her default for the month of July,
 Plaintiff submitted for judgment against Defendant in September, 2012.
- 22. Judgment was entered on September 27, 2012. Please see a copy of that judgment annexed hereto as Exhibit "9."
- 23. Thereafter, Plaintiff commenced execution measures and successfully collected \$984.81 toward the satisfaction of that judgment. Please see the aforementioned Exhibit "3."
- 24. Therefore, Defendant owes \$5,044.72 to Plaintiff toward the satisfaction of the judgment balance. Please see the aforementioned Exhibit "9."
- 25. Defendant then filed her instant Order to Show Cause seeking to stay the execution measures and restore this matter to the calendar. Please see the aforementioned Exhibit "1."
- 26. As the final judgment taken against Defendant is both valid and has not been satisfied, Plaintiff now opposes Defendant's instant motion.

<u>DEFENDANT HAS FAILED TO MEET THE STANDARD REQUIRED TO VACATE THE</u> STIPULATION

- 27. Stipulations entered into in open court are favored by the courts and are to be set aside only where there is cause sufficient to invalidate a contract such as fraud, duress, collusion, or mistake. *Dubi v. Skiros Corp.*, 2009 NY Slip Op 07793 [2d Dep't 2009]; *Hallock v. BRONX*, 64 NY2d 224 [1984].
- 28. Defendant has failed to provide to this Court with any basis upon which to grant her motion, as there is no evidence of fraud, duress, collusion, or mistake.
- 29. Plaintiff has duly demonstrated that the Parties entered into a rent stabilized lease agreement, duly executed a subsequent two year renewal thereof and then a third lease was deemed renewed upon Defendant's failure to respond to Plaintiff's lease renewal request and continue to pay rent through June, 2006, and then vacate the subject premises on or about August 5, 2006. Please see the aforementioned Exhibit "3."
- 30. Plaintiff commenced this instant action to recover monies owed to it resulting from Defendant's breach of the Parties' agreement.
- 31. The Parties then entered into a valid So-Ordered stipulation whereby Defendant admitted owing these monies to Plaintiff.
- 32. To this end, Plaintiff questions why, if Defendant now claims that she does not in fact owe this debt, she would have previously admitted to owing such.
- 33. At all times Plaintiff complied with the stipulation by duly serving Defendant with a notice of default and opportunity to cure upon each instance of Defendant's default.

 Please see the aforementioned Exhibit "8."

- 34. Pursuant to Defendant's breach, Plaintiff then took legal action to which it was entitled as determined in the Parties' Stipulation and obtained a judgment against the Defendant in the amount of the arrears it owed, less the \$200.00 previously collected by it, with interest thereon from July 1, 2006. Please see the aforementioned Exhibit "9."
- 35. Defendant in her January 28, 2013 Order to Show Cause states that her reason for not complying with the stipulation is that "[she] was having some financial problems and [she] wrote a letter and sent it to [Plaintiff] to [explain] her situation and give [her] an opportunity to pay when [her] financial situation [improved]. Please see the aforementioned Exhibit "1."
- 36. This assertion is patently false as Plaintiff asserts that Defendant did not send the letter referenced by Defendant, Please see the aforementioned Exhibit "3."
- 37. While Plaintiff remains sympathetic to any financial difficulty which Defendant may have experienced or is experiencing, Plaintiff submits that the law entitles it to have its judgment satisfied.
- 38. Indeed Plaintiff has expressed its sympathies insofar as Defendant defaulted on the stipulation in July, 2012 and Plaintiff did not submit for judgment until September, 2012.
- 39. Further, Defendant has failed to demonstrate that the Parties' stipulation is based on fraud, duress, collusion or mistake.
- 40. As Defendant has failed to set forth a basis upon which the Parties' stipulation, in accord with *Dubi* and *Hallock*, this Court must uphold the instant judgment and underlying stipulation.

41. Therefore, Plaintiff respectfully requests this Court to deny the instant motion in all respects.

WHEREFORE, as no legal or equitable basis has been stated or exists, Plaintiff

respectfully asks that this Court deny the instant motion.

Dated: Port Chester, NY February 27, 2013

> Gary M. Kavulich, Esq., Kavulich & Associates, P.C. Attorneys for Plaintiff

181 Westchester Ave., Suite 500C

Port Chester, NY 10573 Ph: 914-355-2074

Fax: 914-355-2078

EXHIBIT 1

Case 1:16-cv-02134-ALC Document 86-57 Filed 08/18/17 Page 52 of 110 CIVIL COURT OF THE CITY OF NEW YORK COUNTY OF BRONX 2246 WEBSTER AVENUE HDFC, ORDER TO SHOW CAUSE Plaintiff(s), -against-Index No. 48720-2011 — 8.0.1 ELIZABETH ALIBIZU ACEVEDO, to be the most bury to Special Terra-CHAR COURT CKY OF MY - BYOME COMMEN For Listensia and Attorneys to APPEAR in Court on the Return Calendar Date to Despend to ORDERS TO SHOW CAUSE Upon reading and filing of the annexed Affirmation of ALBERTO TORRES, ESQ. dated

February 7, 2013 and the Affidavit of ELIZABETH ALIBIZU ACEVEDO, sworm to on the 7th day of February, 2013, and upon all pleadings and proceedings heretofore had herein:

LET the Plaintiff, or their attorneys, Show Cause before the Civil Court at PART ROOM , to be held at the Courthouse located at 851 GRAND CONCOURSE, BRONX, NEW YORK ON THE 11th DAY OF MARCH, 2013 at 9:30 a.m. or as soon thereafter as counsel may be heard WHY an Order should not be entered directing the following relief:

- staying, effective immediately, the execution and enforcement of a judgment (a) dated September 27, 2012 and the Income Execution dated October 10, 2012 against Defendant;
- vacating and setting aside the terms and conditions of a stipulation dated January (b) 3, 2012 against the Defendant and placing this matter back onto the court calendar and permitting said Defendant to serve and file an answer, upon the ground of excusable default and meritorious defense;
- granting such other and further relief as to the Court may seem just, reasonable (c) and equitable.

AND SUFFICIENT CAUSE APPEARING THEREFORE, IT IS HEREBY:

ORDERED, that all proceedings on the part of the Plaintiff's attorneys, City Marshal or any other collection agency, be hereby stayed and directed not to enforce or execute on the judgment dated September 27, 2012 in any manner whatsoever:

ORDERED, that Defendant's employer is to cease and desist from responding to the Income Execution Notice dated October 18, 2012 issued by GARY KAVULICH, ESQ., and to discontinue garnishment of Defendant's paycheck until further order of this court.

ORDERED, that service by of a copy of this Order together of a copy of this Order together with the papers upon which it was granted upon Plaintiff's attorneys, GARY KAVULICH, ESQ., KAVULICH & ASSOCIATES, P.C., 181 Westchester Avenue, Suite 500C, Port Chester, New York 10573, Telephone number (914) 355-2074 and Fax number (914) 355-2078, on or before the 21 strain day of February, 2013 and filed with the Clerk of this Court on the return date be deemed sufficient.

Dated: Bronx, New York February , 2013

FEB 1 3 2013

ENTER:

PROOF OF SERVICE SHALL BE FILED WITH THE CLERK OF CIVIL COURT ON THE RETURN DATE.

Hen. Joseph Capella

CIVIL COURT OF THE CI COUNTY OF BRONX		
2246 WEBSTER AVENUE HDFC,		Index No. 48720-2011
	Plaintiff,	
∘against- ELIZABETH ALIBIZU AC	TEVEDO	AFFIRMATION OF EMERGENCY
PRICABELL APIDING AC	EYEDO,	
	Defendant(s).	
STATE OF NEW YORK)) ss:	

)

COUNTY OF BRONX

ALBERTO TORRES, an attorney duly admitted to practice law before the Courts of the State of New York, pursuant to CPLR § 2106, under penalties of perjury, affirms as follows:

- I am the attorney for ELIZABETH ALIBIZU, Defendant in the abovecaptioned matter and as such I am fully familiar with the facts and circumstances of this case.
- I respectfully submit this Affirmation in Support of Defendant's application herein.
- 3. That upon information and belief, in or about January 2013, Defendant who was not notified by her employer that they were served with an Income Execution Notice on a judgment dated September 27, 2012, realized that her employer had started garnishing Defendant's wages.
- 4. That Defendant respectfully files the instant application wherein she states in her Affidavit she had been paying \$50.00 per month pursuant to the stipulation for a total of \$500.00, and that an additional \$900.00 has been garnished from her wages.
- 5. That on February 4, 2013, I spoke to Defendant and reviewed various documents, including the complaint. (See Exhibit 6)

6. That Defendant then became aware that she was sued for alleged rents from July 2006 to November 2006, however, Defendant stated and provided documentary proofs that her (1) lease expired on April 30, 2006 (See Exhibit D), (2) she paid rents through June 2006 (See Exhibit E), and (3) moved into an apartment with the New York City Housing Authority (NYCHA) in June 2006. (See Exhibit F)

- 7. That Defendant in her Answer filed with this court stated that she disputed the debt and the defense of unjust enrichment.
- 8. That this matter is an emergency in that my client's check is being garnished for a debt that she does not owe, and in fact Defendant is entitled to a refund of \$500.00 she made pursuant to a stipulation, and \$900.00 for the garnishment of Defendant's paychecks.
 - 9. That no prior application has been made for the relief herein.

WHEREFORE, this deponent respectfully prays for an order directing that the:

- (a) vacating and staying, effective immediately, the execution and enforcement of a judgment dated September 27, 2012 and vacating the terms and conditions of a stipulation dated January 3, 2012 against Defendant;
- (b) vacating and setting aside the judgment against the Defendant and placing this matter back onto the court calendar and permitting said Defendant to serve and file an answer, upon the ground that Defendant has documentary proofs that she is not obligated to pay this alleged debt;
- (c) granting of such other and further relief as to the Court may seem just, reasonable and equitable.

Dated: Bronx, New York February 7, 2013

ALBERTO TORRES, ESQ.

CIVIL COURT OF THE CI COUNTY OF BRONX	TY OF NEW YORK	
2246 WEBSTER AVENUE	HDFC,	Index No. 48720-2011
	Plaintiff,	
-against-		AFFIDAVIT IN SUPPORT
ELIZABETH ALIBIZU AC	CEVEDO,	
	Defendant(s).	
STATE OF NEW YORK	} }ss.	

ELIZABETH ALIBIZU, being duly sworn, deposes and says:

COUNTY OF BRONX

- I. I am a named Defendant in the above referenced matter.
- 2. That on or about January 2013, I reviewed my paystub and discovered that my employer was gamishing my wages for some unknown debt. I was told that the gamishment was for the mater herein and immediately retrieved a copy from this court of an Income Execution Notice dated October 10, 2012 showing that Plaintiff was able to get a judgment against me for \$6,029.53. (See Exhibit A)
- 3. That I consulted with an attorney and told him that my payroll check was being garnished, although I was making payments (See Exhibit B) pursuant to a stipulation with this court dated January 3, 2012. (See Exhibit C)
- 4. That in reviewing the complaint, my attorney advised me that the lawsuit was for unpaid rents from July 2006 to November 2006, when in fact I had already vacated and surrendered the apartment. (See Exhibit 6)
- 5. That I have a meritorious defense in that I had no contractual obligations with the Plaintiff herein who misrepresented in documents filed with this court that they

are entitled to rents for July 2006 through November 2006 when in fact (1) my lease expired in June 2006, (See Exhibit D), (2) I had paid rent through June 2006 and gave the landlord my security deposit (See Exhibit E) and (3) moved into an apartment at the New York City Housing Authority (NYCHA) in June 2006. (See Exhibit F)

- 6. That I do not owe this alleged debt because I had no contractual agreement obligations with Plaintiff, and the signing of the stipulation under false pretenses and judgment against me should be vacated so that I can defend this case on the merits.
- 7. That as I stated before, I vacated the apartment, paid my rent and surrendered my security deposit to Plaintiff in June 2006, and moved into an apartment with NYCHA.
- 8. Therefore, I request that this court vacate the stipulation, dated January 3, 2012, and judgment, dated September 27, 2012, and give me an opportunity to defend myself on the grounds that I did not owe Plaintiff any rents subsequent to my vacating the apartment.
- 9. That I would also request that this court order Plaintiff to reimburse me \$500.00 I paid pursuant to the stipulation, and \$900.00 that has been garnished from my pay through January 2013.
- 10. It is also requested that the court order a stay on the garnishment of my wages pending the final resolution of this matter.
- 11. That no prior application has been made for the relief that Plaintiff request herein.

WHEREFORE, it is respectfully requested that this Court grant the relief requested and for such other and further relief as this Court deems just and proper.

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Dated: Bronx, New York February 7, 2013

Elizabeth Albizu

Subscribed and sworn to before me on this day of February, 2013

NOTARY PUBLIC

ALBERTO TORRES

Notarty Public State Of New York

No.01T04849826

Oualified in Bronx County

Commission Expires January 27,20





Copyright O 1978 by Kond Subilitation Association.

RENT STABILIZED LEASE

ATTACHED RIDER SETS FORTH RIGHTS AND OBLIGATIONS OF TENANTS AND LANDLORDS UNDER THE RENT STABILIZATION LAW. (LOS DERECHOS Y RESPONSABILIDADES DE INQUILINOS Y CASEROS ESTÁN DISPONIBLE EN ESPAÑOL.)

201011001	Cy to by to a line of the control of
Owner and Renter make this apartment les	ise agreement as follows:
Owner's Name: 2246 WEBSTER AVENU	
Owner's Address for Notices: 660 EAST 18	
Renter's Name: MS ELIZABETH ACEVE	OO Social Security #: 3605
3.	· · · · · · · · · · · · · · · · · · ·
	Y AVENUE, APT. 36, BRONX, NY 10457
Address of Premises to Be Rented: 2246 WEBS	TER AVENUE, BRONX, NEW YORK 10457
Apt. No.: 34 Term of This Lease (Check one): Q	1 year © 2 years *Monthly Rent:S 792,27
Date of Lease: 05/01/03 Beginning:	
" If a preferential rent is being charged, the amount of the pre	ferential rent is set forth in the attached rider.
1.HEADINGS: Paragraph headings are only for ready reference to the terms of this lease. 2.CONDITION "AS IS": Renter acknowledges inspecting the apartment prior to signing this lease and accepts the apartment in the condition it is in as of such inspection. Renter acknowledges that the apartment is free of defects. Owner warrants that the spartment and building are fit for habitation and there are no conditions dangerous to health, life or safety. 3.USE AND OCCUPANCY OF APARTMENT: The apartment is to be used and occupied for private residential purposes only, as the primary residence of Renter. The apartment may be occupied only by Renter named in this lease, Renter's immediate family, or other occupants in accordance with the applicable provisions of law. Renter agrees that the apartment will be occupied only by the following individuals, in addition to Renter:	cancel this lease and obtain a refund of money deposited. Owner will notify Renter as of the date possession is available. The ending date of the lease term will not change in the event Owner is unable to give possession as of the beginning of the lease term. 5. RENT, ADDED RENT, RENT ADJUSTMENTS: ***. Rent payments for each month are due on or before the first day of each month at the address above or at a location designated by Owner in writing. Notice from Owner to Renter that rent is due is not required. The tent must be paid in full without deductions. The first month's rent and added rent must be paid when Renter signs this lease. b. Renter may be required to pay other charges and fees to Owner under the terms of this lease. They are called "added rent." This added rent will be payable as rent, together will the next monthly year due.
Name: Birth Date: Relation to Renter: Elizabeth Accyclo 1997 62 Self	if Renter failed to pay that a first in rights against Renter as
Sahara Acevedo 87 Daughter	lease may be adjusted prospectively or retroactively, pursuant to
Elizabeth Acevedo 89 Daughter	Community Renewal (DHCR). Renter agrees to be bound by such
Renter is obligated to advise Owner, in writing, if any additional occupant moves into the apartment. Such notice must be furnished by Renter to Owner within 10 days of the date such additional occupant moves into the apartment. The apartment may not be occupant moves into the apartment. The apartment may not be occupied by more than the number of occupants permitted by §27-2075 of the Housing Maintenance Code or by §235-f of the Real Property Law, whichever taless. 4. RENTER'S POSSESSION OF APARTMENT: Owner shall not be liable for failure to give Renter possession of the apartment on the beginning day of the lease term. Rent shall be payable as of the beginning of the term unless Owner is unable to give possession, in which case mnt shall be payable as of the date	has not been fixed by the Rent Guidelines Board (RGB) by the date the lease is executed, the rent provided for in this lease may be increased or decreased retroactively to the commencement date of the lease consistent with orders issued by the RGB. Added rent as defined herein shall include, but is not limited to: HCI THPROVEMENTS TEMANT DAMAGES TO J-51 PUPPLISES 6.FAILURE TO PAY RENT ON DUE DATE: Rent is due by the first day of each month shall be considered a "late payment." Retter expressive appreciated and and endeaveraged.
possession is available. Owner must give possession within 30	any twelve month period shall be deemed to be a failure to comply

LEASE/COMMENCEMENT OF OCCUPANCY NOTICE FOR PREVENTION OF LEAD BASED PAINT HAZARDS—INQUIRY REGARDING CHILD

You are required by law to inform the owner if a child under six years of age resides or will reside in the dwelling unit (apartment) for which you are signing this lease/commencing occupancy. If such a child resides or will reside in the unit, the owner of the building is required to perform an annual visual inspection of the unit to determine the presence of lead-based paint hazards. IT IS IMPORTANT THAT YOU RETURN THIS FORM TO THE OWNER OR MANAGING AGENT OF YOUR BUILDING TO PROJECT THE HEALTH OF YOUR CHILD.

If a child under six years of age does not reside in the unit now, but does come to live in it at any time during the year, you must inform the owner in writing immediately. If a child under six years of age resides in the unit, you should also inform the owner immediately at the address below if you notice any peeling point or deteriorated subsurfaces in the unit during the year.

Please complete this form and return one copy to the owner or his or her agent or representative when you sign the lease/commance occupancy of the unit. Keep one copy of this form for your records. You should also receive a copy of a pamphlet developed by the New York City Department of Health explaining about load based paint hazards when you sign your lease/commence occupancy.

CHECK ONE: A child under six years of age resides in the unit.	
20 A child under six years of age does not reside in the u	
Print occupant's name, address and apartment number: MS. ELTZ	
2246 WEBSTER AVENUE, APT. 34, BRONX, NY	10457
Certification by owner: I certify that I have complied with the provisions of the Housing Maintenance Code and the rules provided thereundal performed in vacant units, and that I have provided a copy of the New You namphlet concerning load based point hazards to the occupant. Cran of the Court Cour	r relating to duties to be ork City Dopartment of Health
RETURN THIS FORM TO: 2246 WEBSTER AVENUE HDFC	
660 EAST 183RD STREET, BRONX, NY 10458	
OCCUPANT: KEEP ONE COPY FOR YOUR RECO OWNER COPY/OCCUPANT COPY	Ros

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elevators, if any, shall be used by me engers and trader people for entering and leaving and the passenger elevators, if any, shall not be used by them for any purpose.

41.LAUNDRY: Laundry muchines if any, provided by Owner, shall be used by Renter in the manner and at the times that Owner may designate. Renter shall not dry or air clothes on the roof or on the terrace or balcony, if any, Renter may use laundry machines, if any, at their own risk.

42.OBJECTIONABLE CONDLICT: Renter, their families, guests, employees, or visitors shall not engage in any conduct which makes the apartment or building less fit to live in for Renter or other occupants. Renter shall not make or permit any disturbing noises in the apartment or building or permit anything to be done that will interfere with the rights, comfort or convenience of other renters. Renter shall not play a musical instrument or operate or allow to be operated audio or video equipment so as to disturb or annoy any other occupant of the building.

43.NO PROJECTIONS: Renter may not install or cause to be installed anything on the roof or mutside wall of the huilding or

any balcony, terrace, or window.

44 MOVING: Renter can use the elevator or service elevator, if any, to move furniture and possessions only on designated days and at designated hours. Owner shall not be liable for any costs, expenses or damages incurred by Renter in moving because of delays caused by unavailability of the elevator. Renter shall be liable for any damage caused to the building or the apartment during such move.

45.WAIVER OF FOREIGN SOVEREIGN AND DIFFLOMATIC' DISTUNCTY: Renter represents that he is not subject to foreign sovereign or diplomatic immunity. Renter expressly waives the thereine of foreign sovereign immunity and diplomatic immunity and consents to the jurisdiction of the Housing Court and all other courts. Renter expressly represents that in the event a judgment is obtained against him, Owner may enforce the judgment against any property or assets of Renter, wherever they are located.

46.MILITARY STATUS: Renter represents that he is not in the United States military, and is not dependent upon a member of the United States military. Renter must notify Owner within ten days of enlistment in the military.

47.PARTIES BOUND: This lease agreement is binding on Owner and Renter, and on all those who claim a right, or have a right, to succeed to the legal interest of Owner and Renter.

48.FORMS: Renter agrees to complete any and all forms that may be requested by Owner from time to time.

49 SUBORDINATIO. The rights of Renter, including all rights granted under the terms of this lease are, and shall be, subject to and subordinate to the terms of any mortgage on the building of the land under the building which now exists, or which may hereafter exist. The foregoing shall include but not be limited to any modification, consolidation or extension agreement of any existing mortgage on the land or building.

50.SINGULAR/PLUTAL and JOINT/SEVERAL: The use of the singular shall be deemed to include the plural, and vice vertal, whenever the context so requires. If more than one entity is renting the appropriate, their obligations shall be joint and several.

the apartment, their obligations shall be joint and several, 51. CONDEMNATION/EMINENT DOMAIN: If the building, or any part of the building, is taken or condemned by a public authority or government agency, this lease will end on the date of such taking. In such event, Renter will have no claim for damages against Owner based upon such taking, and Renter will be required to surrender the apartment to Owner upon 30 days written notice from Owner to Renter of such government taking.

from Owner to Remer of such government taking.

52. CONSTRUCTION/CONVENIENCE: Neighboring buildings may be the subject of construction, renovation or demolition. Owner will not be liable to Renter, nor shall Renter seek to hold Owner liable for interference with views, light, air flow, or ventilation, the coverant of quiet enjoyment, or breach of the warranty of habitability whether such interference is temporary or permanent, if such interference results from activities conducted

on adjoining Owners' properties

53 NO WAIVER: The failure of Owner to insign at any time open on experimentative of only clause in this tease shall not be construed as a waiver of Owner's rights. No waiver by Owner of any provision of this lease can be made unless made in writing by Owner. Acceptance of tent by Owner with knowledge of the breach of any condition or term of this lease is not a waiver of the breach. Sucral Security number of Rener authorizes Owner to use the Social Security number of Rener to obtain any and all credit reports for the purpose of the initial lease or any renewal thereof now and no more than five years after the expiration of this lease or any renewal thereof, and fully understands that these reports will be used by owner in connection with Renter's occupancy of the apartment.

the apartment.

55 ENTIRE AGREEMENT: Owner and Renter have read this lease and agree that it contains the entire understanding of the parties regarding the rental of the subject apartment. The lease can only be changed in writing. The writing must be signed by both Owner and Renter.

If any part of this lease is determined to be unlawful, the remaining provisions of the lease will remain valld and in full force and effect.

-> 2246 WEBSTER AVENUE HDFC

Owner/Agent (on behalf of Owner)

SIGNATURE

MS. ELIZABETH ACEVEDO

Renter

Renter Signature

Renter Signature

4 of 4

THE CITY OF THE STATE OF THE ST

KENEWAL LEASE FURIM

THIS IS A NOTICE FOR RENEWAL OF LEASE AND RENEWAL LEASE FORM PROMULGATED PURSUANT TO SECTION 2523.5(a) OF THE NEW YORK CITY RENT STABILIZATION CODE. ALL COPIES OF THIS FORM MUST BE SIGNED BELOW AND RETURNED TO YOUR LANDLORD WITHIN 60 DAYS.

		Date: 01/08/2004				
Tenant's Name ACEVEDO, 2246 WEBS' BRONX, NY	elizabeth Ter avenue, 34	Owner a Agent Name & Address				458
. The own	er hereby politics y	on that your lease	will expire on:			•
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Renewal Torm	Legil rase on Sept. 10 proceding commencement date of this Resewri Legil	Cok e Authoris od applicable Guidoline isotrono (If unitaris a chack by a C) and noe below)?	Cal. d Applicable guideline supplicannt, if any	Col. a Lapital read Incomes udj. If any, effective after Sept. 30 th indicated in Col. b	Cal. I Soperate charge, if any (Specify under item 4 below)	New cast (If some rest in to be charged chark hos [] and see 5 below]**
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EXHIBIT 3

CIVIL COURT OF THE COUNTY OF BRONX: PA	ART 34	INDEX NO. 48720/11
2246 WEBSTER AVENU	E. HDFC,	FILE NO. 13817
	Plaintiff,	<u>AFFIDAVIT</u> IN SU <u>PPORT</u>
- against -		114 2011 232
ELIZABETH ALIBIZU A	CEVEDO.	
	Defendant.	
STATE OF BRONX)	·x	
COUNTY OF BRONX) SS	

- I, Tara Grekulak, being duly sworn deposes and says:
- 1. I am the managing agent for the Plaintiff, 2246 WEBSTER AVENUE, HDFC herein, and as such I am fully familiar with the facts and circumstances of this proceeding.
- 2. The Parties entered into a rent stabilized lease agreement for the premises known as 2246 Webster Avenue, Apt. 34, Bronx, NY 10457 for the period commencing May 1, 2003 and through and including April 30, 2004. Please see the aforementioned Exhibit "1."
- 3. Thereafter, the Parties executed and entered a two (2) year renewal lease thereof for the period commencing May 1, 2004 through and including April 30, 2006.
- 4. As the end of that term approached, Plaintiff sent to Defendant a lease renewal agreement to which Defendant failed to respond.
- 5. Despite failing to respond to that lease agreement, Defendant continued to pay rent through June of 2006.
- 6. However, Defendant did not vacate the premises until on or about August 5, 2010. Please see the aforementioned Exhibit "3."

- 7. My attorneys therefore advised me, that pursuant to the laws of New York which govern rent stabilized leases/tenancies, Defendant satisfied the conditions of a deemed renewal.
- 8. The within proceedings was commenced against Defendant to recover rental arrears in the amount of \$3,993.91, and \$600.00 in damages, due and owing by Defendant to Plaintiff pursuant to the Parties' lease agreement for the premises known as 2246 Webster Avenue, Apt. 34, Bronx, NY.
- 9. Thereafter, at a pre-trial conference of this matter on January 3, 2012, by way of a So-Ordered Stipulation, the Parties hereto settled this matter in the sum of \$2,000,00 at the rate of \$50.00 per month until that sum had been paid in full.
- 10. Also per the terms of that Stipulation of Settlement. Defendant agreed that in the event she should default on that settlement, Plaintiff was entitled to judgment in the full amount of Defendant's arrears balance, \$3,993.91, less any amount paid, with interest thereon from July 1, 2006.
- 11. Also per that Stipulation of Settlement, upon Defendant's default, Plaintiff was to provide to Defendant with a notice of default and 10-day opportunity to cure said default.
 - 12. That pursuant to the Parties' stipulation, Plaintiff collected \$200.00.
 - That Defendant defaulted on that stipulation on at least three occasions.
- 14. Thereafter, upon Defendant's failure to cure her default for the month of July,2012, Plaintiff submitted for and obtained judgment against Defendant in September, 2012.
- 15. Thereafter, Plaintiff commenced execution measures and successfully collected \$984.81 toward the satisfaction of that judgment. Please see the aforementioned Exhibit "2."
- 16. Therefore, Defendant continues to owe to Plaintiff \$5,044.72 toward the satisfaction of that judgment balance.

17. My attorneys has advised me that the Defendant ELIZABETH ALIBIZU ACEVEDO has filed an Order to Show Cause which seeks to vacate the Parties' Stipulation and execution measures taken against Defendant.

WHEREFORE, your deponent prays that the relief sought herein is granted in all respects and for such other and further relief as to this court may seem just and proper.

Sworn to before me this

day of March, 2013

Notary Public

Tara Grekulak

CECILIA A. FERRO
Notary Public, State of Nov.
No. 01FE6280710
Qualified in Westchester
Commission Expires

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EXHIBIT 5

CIVIL COURT OF THE CITY OF NEW YORK COUNTY OF BRONX

048720 (1)

2246 Webster Avenue, HDFC, Plaintiff.

NDEX NO. PILE NO. 13817.0

-Decimat-

SUMMONS
Place of Venue is Plaintiff's place of business:

Elizabeth Alibizu Accycdo,

2246 Webster Avenue Bronx, NY 10457

Defendant(a)

To the above named defendants(a):

YOU ARE HEREBY SUMMONED to appear at the CIVIL COURT OF THE CITY OF NEW YORK, COUNTY OF BRONK at the office of the clerk of the said Court at 851 Grand Concourse, Bronx, NY 10451, in the COUNTY OF BRONX, State of New York, within the time provided by law as noted below and to file an answer to the below complaint with the clerk: upon your failure to answer, judgment will be taken against you for the sum of 85,093 91 with interest thereon from July 1, 2006 together with costs of this action.

DATED: July 1, 201

JUL 1 4 2011

CIVIL COUNTY

By: Dary Kavadich, Esq., Kavalich & Associates, P.C. Attorney for Plaintiff 181 Westchester Avenue Suite 500C Port Chester, NY 10573 (914) 355-2074

Defendant's Address; Elizabeth Alibizu Acevedo 811 E. 167th Street, Apt. 2A Bronx, NY 10459-2771

Note: The law provides that: (a) If the summons is served by its delivery to you personally within the City of New York, you must appear and answer within TWENTY days after such service; or (b) If the summons is served by any means other than personal delivery to you within the City of New York, you must appear and answer within THIRTY days after proof of service thereof is filed with the Clerk of this Court.

3x mail



COMPLAINT

FIRST ACTION: Plaintiff seeks to recover damages from defendant(s) for breach of a lease agreement in the sum of \$3,993.91 representing rental arrears for the months of July, 2006 balance of \$399.79: August, 2006 through and including November, 2006 at the agreed monthly sum of \$898.53 for the premises known as 2246 Webster Avenue, Apt.34 Bronx, MY 10457 together with costs and disbursements of this action and for such other and further relief. as the court may deem just.

SECOND ACTION: Plaintiff seeks to recover damages from the defendant in the sum of \$600.00 representing damages together with costs and distansements of this action and for such other and further relief as the Court may deem just.

THIRD ACTION: Plaintiff sceke to recover damages from the defendant in the sum of \$500.00 representing reasonable attorneys fees together with costs and disbursements of this action and for such other further relief as the Coun may deem justi-

WHEREFORE, Plaintiff demands judgment (A) on the First Action, in the sum of \$3,993.91 plus interest from July 1, 2006 together with costs and disbursements of this action and for such other and further relief as the Court may deem just, (B) on the Second Action, in the sum of \$600.00 plus interest from July I; 2006 together with costs and disbursements of this action and for such other and further relief as the Court may deem just, (C) on the Third Action, in the sum of \$500.00 together with costs and disbursements of this action and for such other and further relief as the Court may deem just.

The Plaintiff in this action is NOT required to be licensed by the New York City Department of Consumer Affairs.



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EXHIBIT 6

Case 1:16-cv-02134-ALC Document 86-57 Filed 08/18/17 Page 81 of 110

FILE 13817

Civil Court of the City of New York County of Bronx

Index No; CV-048720-11/BX

2246 Webster Avenue, HDFC	
-against- Elizabeth Alibizu Acevedo	
re	Æ

ORAL ANSWER

Eliz	abeth Alibizu Acevedo	ACTION FOR M	
Defe as foll	endant, Elizabeth Alibizu Acevedo, at \$11 E. 167th Strows:	vet Apt. 2A, Bronx, NY 10459- , and	swers the Complaint
ANSY	YER: Dated: 11/21/2011 k all that apply)		
1 -	General Denial: I deny the allegations in the co	emplaint	
2	I did not receive a copy of the summons and o	neverlaint	
3	l received the Summons and Complaint, but se	ensica was not correct or required by	laur
•	DEFENSES	raise was not correct as reditited by	aw.
4	I do not owe this debt.		
5	I did not incur this debt. I am the victim of ide	tity theft or mistaken identity	
6	I have paid all or part of the alleged debt.	or misinger touristy.	
7	XX I dispute the amount of the debt.		
8	Plaintiff is required to be licensed by the depart does not allege a license number in the Comple	tment of consumer affairs of the Cip	of New York and
9	Statute of Limitations (the time has passed to)
10	The debt has been discharged in bankruptcy.		,
11	The collateral (property) was not sold at a com-	nercially reasonable price.	
12	XX Unjust earlichment (the amount demanded is ex	cessive compared with the original	lebr 1
13	Violation of the duty of good faith and fair deal	ing.	
14	Unconscionability (the contract is unfair.)		
15		nging this lawsuit to my disadvantage	e)
16	Defendant is in the military.	,	*· · · ·
17	Other:		
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18	and the state of t	e is,which is exempt	from collection
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Date To:	is case is scheduled to appear on the calendar as fol e: January 3, 2012 Part: Part II - Self Represented Non-Ji	lows: 1ry Room 503 Time: 10:30 AM Both S	ides Notificit:
	Kavulich & Associates		FILED
	181 Westchester Ave Suite 500-C	-	RK'S OFFICE
	Port Chester, NY 10573-		
			NOV 2 1 2011

CIVIL COURT **BRONX COUNTY**

EXHIBIT 7

CIVIL COURT OF THE CITY OF THE	/
CIVIL COURT OF THE CITY OF NEW 1	ORK Index No. 487-20/11
- Pan !!	
THE STATE OF THE S	File#=
2246 WEBSTER AVENU	STIPULATION 13817
Plaintiff(s).	City of New York
	City of treat year
-against-	JAN 0 3 2012
Elizabeth ALIDIZU ACEVE	DO ENTERED
Detendant(s).	BRONX COUNTY
	-
It is hereby stipulated and agreed by and	between the parties that the above-referenced
action is settled as follows: Planning \$2000 \$2.00 Full set	f shall acceme
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Signature Date Date Date	Signature Date
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CIV-GP-32 (Revised December, 2005)	flage of
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	Page 83

EXHIBIT 8

Kavulich & Associates, P.C. 181 Westchester Avenue Soite 500C

Port Chester, NY 10573 Phone: (914) 355-2074 Fax: (914) 355-2078

April 9, 2012 Elizabeth Alibizu Acevedo 811 E. 167th Street Apt. 2A Bronx, NY 10459-2771

Re: Defaulted Stipulation

2246 Webster Avenue, HDFC

File No.: 13817

Dear Elizabeth Alibizu Acevedo:

You are in default of your payment under the stipulation signed by you. Please be advised that if the default is not cured within 10 days of the date of this letter, my client will pursue all remedies available to it under law.

Kindly forward all remittances to us, payable to the law firm of Kavulich & Associates, P.C. at 181 Westchester Ave., Suite 500C, Port Chester, NY 10573 with your file number on said payment. Thank you for your attention to this matter.

Gary Kavulich, Esq.

Very Truly You

This is an attempt to collect a debt. Any information obtained will be used for that purpose. This communication is from a debt collector.

Kavulich & Associates, P.C.
181 Westchester Avenue
Suite 500C
Port Chester, NY 10573
Phone: (914) 355-2074 Fax: (914) 355-2078

June 12, 2012 Elizabeth Alibizu Acevedo 811 E. 167th Street Apt. 2A Bronx, NY 10459-2771

Re:

Defaulted Stipulation

2246 Webster Avenue, HDFC

File No.: 13817

Dear Elizabeth Alibizu Acevedo:

You are in default of your payment under the stipulation signed by you. Please be advised that if the default is not cured within 10 days of the date of this letter, my client will pursue all remedies available to it under law.

Kindly forward all remittances to us, payable to the law firm of Kavulich & Associates, P.C. at 181 Westchester Ave., Suite 500C, Port Chester, NY 10573 with your file number on said payment. Thank you for your attention to this matter.

Very Truly Young,

Gary Kavulich, Esq.

This is an attempt to collect a debt. Any information obtained will be used for that purpose. This communication is from a debt collector.

Kavulich & Associates, P.C. 181 Westchester Avenue Suite 500C

Port Chester, NY 10573 Phone: (914) 355-2074 Fax: (914) 355-2078

August 28, 2012 Elizabeth Alibizu Acevedo 811 E. 167th Street Apt. 2A Bronx, NY 10459-2771

Re:

Defaulted Stipulation

2246 Webster Avenue, HDFC

File No.: 13817

Dear Elizabeth Alibizu Acevedo:

You are in default of your payment under the stipulation signed by you. Please be advised that if the default is not cured within 10 days of the date of this letter, my client will pursue all remedies available to it under law.

Kindly forward all remittances to us, payable to the law firm of Kavulich & Associates, P.C. at 181 Westchester Ave., Suite 500C, Port Chester, NY 10573 with your file number on said payment. Thank you for your attention to this matter.

Very Truly Y

Gary Kavulich, Esq.

This is an attempt to collect a debt. Any information obtained will be used for that purpose. This communication is from a debt collector.

EXHIBIT 9

Bronx County Civil Court Civil Judgment

Plaintiff(s): 2246 Webster Avenue, HDFC

٧s.

Defendant(s):

Index Number: CV-048720-11/BX Judgment issued: Per Default in Stipulation

On Motion of:

Kavulich & Associates PC

181 Westchester Avenue, Suita 500C, Port

Chester, NY 10573-

Elizabeth Alibizu Acevedo)		Chaster.	NT ICC. S	\$0.00
Amount claimed Less Payments made Less Counterclaim Offset Interest 07/01/2006 Atterney Fees Cost By Statute	\$3,993.91 \$200.00 \$0.00 \$2,105.62 \$0.00 \$20.00	index Number Fee Consumer Cradit Fee Service Fee Non-Military Fee Natice of Trisl Fee Jury Domand Fee	\$45.00 \$0.00 \$25.00 \$0.00 \$0.00 \$0.00	Transcript Fee County Clock Fee Enforcement Fee Other Disbursuments Other Coats Judgmant Total	\$0.00 \$40.00 \$0.00 \$0.00 \$6.029.53
Total Damages	\$5,899,53 Total Co	sts & Disbursements			

Total Damages The following named parties, addressed and identified as creditors below:

Plaintiff creditor(s) and address

(1) 2246 Webster Avenue, HDFC

2246 Webster Avenue, Bronx, NY 10457-

Shall recover of the following parties, addresses and identified as debtors below:

Delendant debtor(s) and address

(1) Elizabeth Alibizu Acevedo

811 E. 167th Street, Apt. 2A, Bronx, NY 10459-

Judgment entered at the Bronx County Civil Court, 851 Grand Concourse, Bronx, NY 10451, in the STATE OF NEW YORK in the total amount of \$6,029.53 on 09/27/2012 at 12:15 PM.

Judgment sequence 1

Carol alt

Carol Alt, Chief Clerk Civil Court

COURT OF THE CITY OF NEW YORK COUNTY OF BRONX	
2246 WEBSTER AVENUE, HDFC,	INDEX NO. 48720/11 FILE NO. 13817
Plaintiff,	
- against -	
ELIZABETH ALIBIZU ACEVEDO,	AFFIRMATION OF SERVICE
Defendant.	
Gary M. Kavulich, Esq., an attorney duly admitted a State of New York hereby affirms the following under the position on March 5, 2013 I served the within Reply upon for the Defendant in this action, by depositing a true copy in Alberto Torres, Esq. 629 Melrose Avenue Bronx, NY 10455	penalty of perjury,
in an official depository under the exclusive dominion and Service within the State of New York via regular first class. Gary M. Kavuych, Esc.	

INDEX NO: 48720

CIVIL COURT OF THE CITY OF NEW YORK COUNTY OF BRONX

2246 WEBSTER AVENUE, HDFC.

Plaintiff,

- against -

ELIZABETH ALIBIZU ACEVEDO,

Defendant.

REPLY TO DEFENDANT' OPPOSITION TO PLAINTIFF'S MOTION

Signature Rule 130-1.1-a

Print Name Beneath -

Gary M. Kavulich, Esq.

Kavulich & Associates, P.C. Attorneys for the Plaintiff 181 Westchester Avenue, Suite 500C Port Chester, NY 10573 914-355-2074

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CIVIL COURT OF THE CI COUNTY OF BRONX		
2246 WEBSTER AVENUE	, HDFC,	
	Plaintiff,	INDEX NO. 48720/1 FILE NO. 13817
-against-		NOTICE OF ENTRY
ELIZABETH A. ACEVEDO),	
	Defendant(s).	
PLEASE TAKE NO	TICE, that annexed hereto is the	
Dated: Westchester, NY March 25, 2013	Yours, etc.,	
	Kavulich & A 181 Westches Port Chester,	Associates, PC ster Avenue, Ste. 500C NY 10573

To:

Alberto Torres, Esq. 629 Melrose Avenue Bronx, NY 10455

3RG):: 2013 APR -1 MM 9:56

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	agains	′ /	Order to Show Cause and Affidavias Annexed	
, . ~, ./f	B-7-1 1	ACEVEDO	Answering Affidavits	
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Upon	the foregoing c	ited papers, the Decision/O	order on this Motion to Yugara	
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CIVIL COURT OF THE CITY OF NEW YORK COUNTY OF BRONX	Index No. 48720/11 File No. 13817
2246 WEBTSER AVENUE, HDFC,	
Plaintiff,	AFFIDAVIT OF SERVICE BY MAIL
-against-	1/1 Million
ELIZABETH A. ACEVEDO,	
Defendant(s).	
STATE OF NEW YORK COUNTY OF WESTCHESTER ss:	
Vanessa Sooksavath being duly sworn, deposes and says:	
I am over 18 years of age and not a party to this action. On M	tarch 25, 2013
I served the within Notice of Entry upon the defendant's attor	rney in this action, by
depositing a true copy of the Notice of Entry in a postpaid env	velope addressed to:
Alberto Torres, Esq. 629 Meirosc Avenue Bronx, NY 10485	
in an official depository under the exclusive care and custody	of the United States Postal Service,
within the State of New Yorkivia regular first class mail. Vanessa So Sworn to before phy, this 25th day of March, 2013 Notary Public	oksavath

GARY KAVULICH NOTARY PUBLIC-STATE OF NEW YORK NO: 02KA6205615 QUALIFIED IN WESTCHESTER COUNTY MY COMMISSION EXPIRES 05/11/2013

Page 95

PLEASE take notice that the within is a (verified) true copy of a duly entered in the office of the clerk of the widin named court on

Dated,

Attorney for

Office and Post Office Address

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Attorneys(s) for

PLEASE take notice that an order

of which the within is a true copy will be presented

for settlement to the Hon. one of the judges of the within named Court, at

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Dated,

Office and Post Office Address

Attorney for

To C

Attumey(s) for

INDEX NO. 48720

YEAR 2011

CIVIL COURT OF THE CITY OF NEW YORK COUNTY OF BRONX

2246 WEBSTER AVENUE, HDFC,

Plaintiff,

-against-

ELIZABETH A. ACEVEDO,

NOTICE OF ENTRY
Signature(Rule 130-1.1-a)
Gary Kavulich, Esq.

Kavulich & Associates, P.C. Attorney for Plaintiff Office and Post Office Address, Telephone 181 Westchester Avenue, Ste. 500C Port Chester, NY 10573

ľo

914-355-2074

Attorney(s) for

Service of a copy of the within is hereby admitted. Dated

Attorneys(s) for

Defendant(s):

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Civil Court of the City of New York	Index Number <u>CV-048720-/1/BX</u> Motion Cal. # Motion Seq. #
County of 13 10 x X	Motion Cal. #Wotton Seq. #
Part	DECISION/ORDER
2746 Webster Avenue, HOFC	Recitation, as required by CPLR §2219 (a), of the papers considered in the review of this Motion:
	Papers Numbered
Claimant(s)/Plaintiff(s)/Petitioner(s)	Notice of Motion and Affidavits Annexed
against	Order to Show Cause and Affidavits Annexed
ELIZABETH ALIBIZUACENEDU	Answering Affidavits
ELITABENTALLISTEONICOLOG	Replying Affidavits
Defendant(s)/Respondent(s)	Other.
Upon the foregoing cited papers, the Decision/Ord	er on this Motion to Vacate
	is as follows:
Detendant's pro-se mos	tion to vacate is
heret plenied as more	
the Decision of the C	,
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11, 2013.	
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3/20/13 Date	Erbeto
Date	
	Judge, Civil Court
	HON, EDDIE J. McSHAN
CONTRACTOR (Several 1999)	Page 97
CIV-GP-85 (Keyoust, September, 1999)	

Case 1:16-cv-02134-ALC Document 86-57 Filed 08/18/17 Page 98 of 110

CIVIL COURT OF THE CITY OF NEW YORK COUNTY OF BRONX: PART 30

2246 WEBSTER AVENUE, HDFC, Plaintiff,

Index No.: CV-48720-11/BX

DECISION/ORDER

-against-

Present:

HON, PAUL A. GOETZ

ELZABETH ALBIZU ACEVEDO,

Defendant.

Recitation as Required by CPLR §2219(a): The following papers were read on plaintiff's motion for judgment based upon defendant's default on stipulation and defendant's cross motion to vacate the stipulation:

Papers Numbered

Upon review of the foregoing papers, plaintiff's motion for a judgment pursuant to defendant's default on a stipulation and defendant's cross motion to vacate the stipulation, is decided as follows:

Plaintiff seeks entry of judgment in the amount of \$2,632.08 with interest from July 1, 2006 plus costs and disbursements based upon defendant's default on a Stipulation, dated January 2, 2012 (the "2012 Stipulation"), which provided for settlement of all plaintiff's claims against defendant in exchange for payment of \$2,000.00 in \$50.00 monthly installments. The stipulation provides that if defendant defaults on the stipulation, plaintiff may move for judgment in the amount of \$3,993.91 with interest from July 2006. According to plaintiff, \$3,993.91 represents unpaid rent for the period of July 2006 through November 2006 (the sum of \$399.79 for July 2006 plus \$3,594.72 for the four months of August through November 2006 (at \$898.53 per month).

In September 2012, the Clerk entered judgment (the "2012 Judgment") against defendant in the amount of \$6,029.53 (\$3,993.51 with interest from July 2006 and costs) based upon defendant's default on the 2012 Stipulation. Defendant's wages were later garnished based upon the 2012 Judgment.

In March 2013, the Court issued an order (the "March 2013 Order") that vacated the 2012 Judgment without prejudice to plaintiff moving for entry of judgment based upon defendant's alleged default on the 2012 Stipulation and without prejudice to defendant's moving to vacate the 2012 Stipulation.

Plaintiff credits defendant with payments in the amount of \$1,361.83 (\$200.00 in payments by defendant pursuant to the 2012 Stipulation and \$1,161.83 in defendant's wages garnished pursuant to the now vacated 2012 Judgment).

Defendant's cross motion seeks to vacate the 2012 Stipulation, pursuant to CPLR §§ 5015(a)(2) and 2001 because she was unrepresented at the time she entered

into the stipulation and because she did so in reliance upon plaintiff's mistaken representation that she owed \$3,993.91 in unpaid rent.

Defendant claims that she was under no obligation to pay rent after April 30, 2006 when her lease expired; that she vacated the premises and moved to a NYCHA apartment in June 2006; that plaintiff's rent payment ledger, attached as an exhibit to defendant's cross motion (a document defendant did not have access to at the time she entered into the 2012 Stipulation) indicates that defendant owed \$1,233.98 in unpaid rent through November 2006; that she paid more than \$200.00 towards the 2012 Stipulation and that her wages were garnished as a result of the 2012 Judgment in an amount that is greater than the \$1,161.83 set forth by plaintiff.

Defendant asserts that she became a month to month tenant after her lease expired on April 30, 2006. In support of her claims, defendant attaches a copy of a lease to her NYCHA apartment that commences in June 2006 and a copy of the plaintiff's rental payment ledger. However, defendant does not attach any evidence that she surrendered possession of the apartment upon the lease expiration date of April 30, 2006 and made no payments for rent after the lease expired. See Rent Stabilization Code ("RSC") § 2523.5(c)(2).

Plaintiff claims that defendant's rent stabilized lease, which expired on April 30, 2006 was "deemed" renewed after plaintiff failed to return the lease renewal form and paid rent for the month of May, 2006.

Stipulations of settlement are favored and not lightly cast aside. (Hallock v State of New York, 64 NY2d 224, 230 [1984]). A court should not disturb a valid Stipulation absent a showing of cause sufficient to invalidate a contract, such as fraud, collusion, mistake or duress; or unless the agreement is unconscionable; or contrary to public policy; or unless it suggests an ambiguity indicating that the words did not fully and accurately represent the parties' agreement (McCoy v Feinman, 99 NY2d 295 [2002] [citations omitted]); or where it appears that the movant "inadvertently, inadvisably, or improvidently entered into an agreement which will take the case out of a due and ordinary course of proceeding in the action and work to his prejudice" (Matter of Frutiger, 29 NY2d143, 149-50 [1971]).

Pursuant to CPLR §5015(a), a Court which renders an order may relieve a party from it upon such terms as may be just, on motion of any interested person with such notice as the court may direct, upon ground of (1) excusable default; or (2) newly discovered evidence; (3) fraud, misrepresentation, or other misconduct of an adverse party; or (4) tack of jurisdiction to render the judgment or order; or (5) reversal, modification or vacatur of a prior judgment or order upon which it is based.

RSC § 2523.5(c)(2) provides that where the tenant fails to timely renew an expiring lease or rental agreement offered pursuant to this section, and remains in occupancy after expiration of the lease, such lease or rental agreement may be deemed to have been renewed upon the same terms and conditions, at the legal regulated rent, together with any guidelines adjustments that would have been applicable had the offer

of a renewal lease been timely accepted and that the effective date of the rent adjustment under the "deemed" renewal lease shall commence on the first rent payment date occurring no less than 90 days after such offer is made by the owner.

Contrary to defendant's position that she was a month to month tenant, the Court, based upon the Rent Stabilization Code, determines that plaintiff's lease was properly deemed renewed for a one year term when defendant made rent payments after April 30, 2006. Moreover, defendant has failed to establish that she surrendered possession of the premises prior to August 2006.

However, plaintiff's opposition papers do not respond to and do not controvert defendant's assertion, based upon plaintiff's rent payment ledger (a document defendant did not have access to at the time she entered into the 2012 Stipulation), that she owed \$1,233.98 at the time she entered into the 2012 Stipulation instead of the \$2,000.00 settlement amount and \$3,993.91 total amount set forth in the 2012 Stipulation. "Facts appearing in the movant's papers which the opposing party does not controvert, may be deemed to be admitted." (Kuehne & Nagel Inc v Baiden, 36 NY2d 539, 544 [1975]).

The Court finds, based upon the uncontroverted evidence submitted by defendant, that the 2012 Stipulation was based upon a mistake as to the amount of rent owed (plaintiff's mistaken assertion that defendant owed \$3,993.91 instead of the correct amount owed \$1,233.98) through November 2006.

Therefore, because plaintiff was mistaken as to the amount owed when the 2012 Stipulation was entered into by the parties and defendant inadvertently and inadvisably entered into the 2012 Stipulation based upon plaintiff's mistake the Court grants defendant's motion to vacate the 2012 Stipulation. (See *McCoy v Feinman*, 99 NY2d 295 [2002]; *Matter of Frutiger*, 29 NY2d143, 149-50 [1971]).

Accordingly, plaintiff's motion for judgment is denied and defendant's motion to vacate the stipulation is granted and the Clerk is directed to restore this matter to the appropriate calendar.

This constitutes the Decision and Order of this Court.

Dated: July 3, 2014

Hon, Paul A. Goetz, S.C.C.

ENTERED ...

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CIVIL COURT BRONX COUNTY

Civil Court of the City of New York Bronx, New York 10451 851 Grand Concourse

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CIVIL COURT OF THE CITY OF NEW YORK COUNTY OF BRONX: PART 30

2246 WEBSTER AVENUE, HDFC, Plaintiff. Index No.: CV-48720-11/BX

DECISION/ORDER

-against-

Present:

ELZABETH ALBIZU ACEVEDO.

HON, PAUL A. GOETZ

Defendant.

Recitation as Required by CPLR §2219(a): The following papers were read on plaintiff's motion for judgment based upon defendant's default on stipulation and defendant's cross motion to vacate the stipulation:

Papers Numbered

Motion, Attorney Affirmation, Affidavit and Exhibits..... Opposition and Cross Motion, Attorney Affirmation, Affidavit and Exhibits..... Attorney Affirmation in Reply and Opposition to Cross Motion, with Exhibits.....

Upon review of the foregoing papers, plaintiff's motion for a judgment pursuant to defendant's default on a stipulation and defendant's cross motion to vacate the stipulation, is decided as follows:

Plaintiff seeks entry of judgment in the amount of \$2,632.08 with interest from July 1, 2006 plus costs and disbursements based upon defendant's default on a Stipulation, dated January 2, 2012 (the "2012 Stipulation"), which provided for settlement of all plaintiff's claims against defendant in exchange for payment of \$2,000.00 in \$50.00 monthly installments. The stipulation provides that if defendant defaults on the stipulation, plaintiff may move for judgment in the amount of \$3,993.91 with interest from July 2006. According to plaintiff, \$3,993.91 represents unpaid rent for the period of July 2006 through November 2006 (the sum of \$399.79 for July 2006 plus \$3,594.72 for the four months of August through November 2006 (at \$898.53 per month).

In September 2012, the Clerk entered judgment (the "2012 Judgment") against defendant in the amount of \$6,029.53 (\$3,993.51 with interest from July 2006 and costs) based upon defendant's default on the 2012 Stipulation. Defendant's wages were later garnished based upon the 2012 Judgment.

In March 2013, the Court issued an order (the "March 2013 Order") that vacated the 2012 Judgment without prejudice to plaintiff moving for entry of judgment based upon defendant's alleged default on the 2012 Stipulation and without prejudice to defendant's moving to vacate the 2012 Stipulation.

Plaintiff credits defendant with payments in the amount of \$1,361.83 (\$200.00 in payments by defendant pursuant to the 2012 Stipulation and \$1,161.83 in defendant's wages garnished pursuant to the now vacated 2012 Judgment).

Defendant's cross motion seeks to vacate the 2012 Stipulation, pursuant to CPLR §§ 5015(a)(2) and 2001 because she was unrepresented at the time she entered into the stipulation and because she did so in reliance upon plaintiff's mistaken representation that she owed \$3,993.91 in unpaid rent.

Defendant claims that she was under no obligation to pay rent after April 30, 2006 when her lease expired; that she vacated the premises and moved to a NYCHA apartment in June 2006; that plaintiff's rent payment ledger, attached as an exhibit to defendant's cross motion (a document defendant did not have access to at the time she entered into the 2012 Stipulation) indicates that defendant owed \$1,233.98 in unpaid rent through November 2006; that she paid more than \$200.00 towards the 2012 Stipulation and that her wages were garnished as a result of the 2012 Judgment in an amount that is greater than the \$1,161.83 set forth by plaintiff.

Defendant asserts that she became a month to month tenant after her lease expired on April 30, 2006. In support of her claims, defendant attaches a copy of a lease to her NYCHA apartment that commences in June 2006 and a copy of the plaintiff's rental payment ledger. However, defendant does not attach any evidence that she surrendered possession of the apartment upon the lease expiration date of April 30, 2006 and made no payments for rent after the lease expired. See Rent Stabilization Code ("RSC") § 2523.5(c)(2).

Plaintiff claims that defendant's rent stabilized lease, which expired on April 30, 2006 was "deemed" renewed after plaintiff failed to return the lease renewal form and paid rent for the month of May, 2006.

Stipulations of settlement are favored and not lightly cast aside. (Hallock v State of New York, 64 NY2d 224, 230 [1984]). A court should not disturb a valid Stipulation absent a showing of cause sufficient to invalidate a contract, such as fraud, collusion, mistake or duress; or unless the agreement is unconscionable; or contrary to public policy; or unless it suggests an ambiguity indicating that the words did not fully and accurately represent the parties' agreement (McCoy v Feinman, 99 NY2d 295 [2002] [citations omitted]); or where it appears that the movant "inadvertently, inadvisably, or improvidently entered into an agreement which will take the case out of a due and ordinary course of proceeding in the action and work to his prejudice" (Matter of Frutiger, 29 NY2d143, 149-50 [1971]).

Pursuant to CPLR §5015(a), a Court which renders an order may relieve a party from it upon such terms as may be just, on motion of any interested person with such notice as the court may direct, upon ground of (1) excusable default; or (2) newly discovered evidence; (3) fraud, misrepresentation, or other misconduct of an adverse party; or (4) lack of jurisdiction to render the judgment or order; or (5) reversal, modification or vacatur of a prior judgment or order upon which it is based.

RSC § 2523.5(c)(2) provides that where the tenant fails to timely renew an expiring lease or rental agreement offered pursuant to this section, and remains in occupancy after expiration of the lease, such lease or rental agreement may be deemed to have been renewed upon the same terms and conditions, at the legal regulated rent, together with any guidelines adjustments that would have been applicable had the offer

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Page 103

of a renewal lease been timely accepted and that the effective date of the rent adjustment under the "deemed" renewal lease shall commence on the first rent payment date occurring no less than 90 days after such offer is made by the owner.

Contrary to defendant's position that she was a month to month tenant, the Court, based upon the Rent Stabilization Code, determines that plaintiff's lease was properly deemed renewed for a one year term when defendant made rent payments after April 30, 2006. Moreover, defendant has failed to establish that she surrendered possession of the premises prior to August 2006.

However, plaintiff's opposition papers do not respond to and do not controvert defendant's assertion, based upon plaintiff's rent payment ledger (a document defendant did not have access to at the time she entered into the 2012 Stipulation), that she owed \$1,233.98 at the time she entered into the 2012 Stipulation instead of the \$2,000.00 settlement amount and \$3,993.91 total amount set forth in the 2012 Stipulation. "Facts appearing in the movant's papers which the opposing party does not controvert, may be deemed to be admitted." (Kuehne & Nagel Inc v Baiden, 36 NY2d 539, 544 [1975]).

The Court finds, based upon the uncontroverted evidence submitted by defendant, that the 2012 Stipulation was based upon a mistake as to the amount of rent owed (plaintiff's mistaken assertion that defendant owed \$3,993.91 instead of the correct amount owed \$1,233.98) through November 2006.

Therefore, because plaintiff was mistaken as to the amount owed when the 2012 Stipulation was entered into by the parties and defendant inadvertently and inadvisably entered into the 2012 Stipulation based upon plaintiff's mistake the Court grants defendant's motion to vacate the 2012 Stipulation. (See *McCoy v Feinman*, 99 NY2d 295 [2002]; *Matter of Frutiger*, 29 NY2d143, 149-50 [1971]).

Accordingly, plaintiff's motion for judgment is denied and defendant's motion to vacate the stipulation is granted and the Clerk is directed to restore this matter to the appropriate calendar.

This constitutes the Decision and Order of this Court.

Dated: July 3, 2014

Ion. Paul A. Goetz DC C

ENTERED

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CIVIL COURT BRONX COUNTY

CIVIL COURT OF THE CITY OF NEW YORK NO.6 COUNTY OF BRONX: PART 30	CALENDAR NUMBER ASSIGNEL INDEX NO. 48720/11 FILE NO. 13817
2246 WEBSTER AVENUE, HDFC,	
Plaintiff,	NOTICE OF MOTION FOR JUDGMENT
- against -	no cet f.t.

ELIZABETH ALIBIZU ACEVEDO,

Defendant.

MOTION BY:

Kavulich & Associates, P.C. Attorneys for Plaintiff

DATE, TIME AND PLACE OF HEARING:

March 18, 2014 9:30 A.M.

-Motion Term: Part 30, Room 503 Civil Court of the City of New York County of Bronx 851 Grand Concourse Bronx, NY 10451

SUPPORTING PAPERS:

Affirmation of Gary M. Kavulich, Esq., dated February 20, 2014, affidavit of Janine Losey, managing agent for the Plaintiff, and upon all the papers and proceeding heretofore had herein.

4-21-14- rapez due Ady 4-28-14 Fully submitted 4-28-14

RELIEF REQUESTED:

An Order for judgment against the Defendant in the amount of \$2.632.08, plus costs, fees, disbursements and interest from July 1, 2006, and for such other and further relief as to this Court may deem just and proper.

Dated:

Port Chester, New York February 20, 2014

Yours Etc.,

Kavulich & Associates, P.C. By: Gary M. Kavulich, Esq.

181 Westchester Ave., Suite 500-C

Port Chester, NY 10573

(914) 355-2074

To:

Alberto Torres, Esq.
Attorney for the Defendant
629 Melrose Avenue
Bronx, NY 10455

CIVIL COURT OF THE CITY OF NEW YORK COUNTY OF BRONX: PART 30	INDEX NO. 48720/11 FILE NO. 13817
2246 WEBSTER AVENUE, HDFC,	
Plaintiff.	AFFIRMATION IN SUPPORT
- against -	
ELIZABETH ALIBIZU ACEVEDO.	
Defendant.	

Gary M. Kavulich. Esq., an attorney duly admitted to practice law before the Courts of the State of New York hereby affirms the following under the penalty of perjury.

- 1. I am a member of the law firm of Kavulich & Associates, P.C., attorneys for the Plaintiff, herein. As such, I am fully familiar with the facts and circumstances of the within proceeding, except as to those matters stated to be based upon information and belief, and as to those matters I believe them to be true. The basis of my belief is information furnished to me by my client, information contained within the Court's file, and information contained within the file as maintained by your affirmant's office.
- 2. I make this affirmation in support of Plaintiff's application for a judgment against Defendant ELIZABETH ALIBIZU ACEVEDO pursuant to Defendant's default upon a signed stipulation dated January 3, 2012, and for such other and further relief as to this Court may deem just and proper. Please see a copy of that stipulation annexed hereto as Exhibit "1."

BACKGROUND

- Plaintiff commenced this action seeking to recover \$5,093,91 on or about July 14.
 Annexed hereto as Exhibit "2" is the affidavit of Plaintiff's managing agent, Janine Losey. Please see the summons and complaint annexed hereto as Exhibit "3."
- 4. Defendant interposed an answer on or about November 21, 2011. Please see Defendant's answer annexed hereto as Exhibit "4."
- 5. Thereafter, at a pre-trial conference of this matter on January 3, 2012, by way of a So-Ordered Stipulation, the Parties hereto settled this matter in the sum of \$2,000.00 at the rate of \$50.00 per month until that sum had been paid in full. Please see aforementioned Exhibit "1."
- 6. Further, upon Defendant's default. Plaintiff was to provide to Defendant with a notice of default and 10-day opportunity to cure said default. Please see the aforementioned Exhibit "1."
- 7. Also per the terms of that Stipulation of Settlement, Defendant agreed that in the event she should default on that settlement, Plaintiff was entitled to judgment in the full amount of Defendant's arrears balance. \$3,993.91, less any amount paid, with costs, fees, disbursements and interest thereon from July 1, 2006. Please see aforementioned Exhibit "1." Please see the aforementioned Exhibit "2."
- 8. Pursuant to the Parties' stipulation, Plaintiff collected \$200.00. Please see the aforementioned Exhibit "2."
- However, Defendant defaulted on that stipulation on at least three occasions.
 Please see the aforementioned Exhibit "2."

- 10. Pursuant to the stipulation, Plaintiff sent to Defendant the requisite default notices. Please see those default notices annexed hereto as Exhibit "5."
- Thereafter, upon Defendant's failure to cure her default for the month of July.
 Plaintiff submitted for judgment against Defendant in September, 2012.
- 12. Judgment was entered on September 27, 2012. Please see a copy of that judgment annexed hereto as Exhibit "6."
- 13. Thereafter, Plaintiff commenced execution measures and successfully collected \$1,161.83 toward the satisfaction of that judgment. Please see aforementioned Exhibit "2."
- 14. Defendant then filed an Order to Show Cause seeking to stay the execution measures and restore this matter to the calendar. Annexed hereto as Exhibit "7" is a copy of Defendant's Order to Show Cause.
- 15. Thereafter, Defendant retained counsel and filed a supplemental affirmation with her Order to Show Cause. Annexed hereto as Exhibit "8" is a copy of said affirmation.
- 16. On March 11, 2013, the Court granted Defendant's Order to the extent that the judgment and all execution measures were vacated, but the Court did not vacate the stipulation due to the fact that the aforementioned stipulation allowed the Plaintiff to try for a motion of judgment upon the Defendant's default. Annexed hereto as Exhibit "9" is a copy of the Court's decision.
- 17. Therefore, Defendant owes \$2,632.08, plus costs, fees, disbursements and interest from July 1, 2006 to Plaintiff toward the satisfaction of the defaulted stipulation. Please see aforementioned Exhibit "1."

18. As Defendant has breach the terms of the stipulation and as this debt remains due and owing to Plaintiff, Plaintiff now moves for judgment pursuant to Defendant's default upon the stipulation.

WHEREFORE, your affirmant respectfully requests that the instant motion be granted in all respects and for such other and further relief as to this Court may seem just and proper.

Dated:

Port Chester, New York

February 20, 2014

Gary Mr. Kavulich, Esq.